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ABSTRACT

This compilation reprints the texts of 22 federal laws relating to child welfare, especially child abuse prevention and treatment, drug abuse prevention, and education of children with disabilities. The compilation includes: Abandoned Infants Assistance Act of 1988; Act of March 3, 1879 (American Printing House for the Blind); Act of August 12, 1968 (Architectural Barriers Act of 1968); Americans with Disabilities Act of 1990; Anti-Drug Abuse Act of 1988 (section 5051; National Commission on Drug-Free Schools); Child Abuse Prevention, Adoption, and Family Services Act of 1988; Child Abuse Prevention and Treatment Act; Child Abuse Prevention and Treatment and Adoption Reform Act of 1978; Congressional Award Act; Domestic Volunteer Service Act of 1973; Drug-Free School and Communities Act of 1986 (Title V of the Elementary and Secondary Education Act of 1965); Education of the Deaf Act of 1986; Family Violence Prevention and Services Act; Helen Keller National Center Act; Individuals with Disabilities Education Act; Joint Resolution of July 11, 1949 (President's Committee on Employment of People with Disabilities); National Commission To Prevent Infant Mortality Act of 1986; National Environmental Education Act; Rehabilitation Act of 1973 (including Title IV, the Employment Opportunities for Individuals with Handicaps Act); Social Security Act (selected provisions); Technology-Related Assistance for Individuals with Disabilities Act of 1988; and Temporary Child Care for Children with Disabilities and Crisis Nurseries Act of 1986. An appendix reprints sections of laws authorizing the establishment of the Office of Educational Research and Improvement. (JDD)

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[COMMITTEE PRINT]

A COMPILATION OF FEDERAL EDUCATION LAWS

VOLUME V

As Amended Through December 31, 1992

PREPARED FOR THE USE OF THE

COMMITTEE ON EDUCATION AND LABOR
OF THE
U.S. HOUSE OF REPRESENTATIVES

Serial No. 103-G

AND FOR THE USE OF THE

COMMITTEE ON LABOR AND HUMAN RESOURCES
OF THE
UNITED STATES SENATE

ONE HUNDRED THIRD CONGRESS
FIRST SESSION

JUNE 1993

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U.S. DEPARTMENT OF EDUCATION
Office of Educational Research and Improvement
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ACT OF MARCH 3, 1879

Act of March 3, 1879[1]

AN ACT to promote the education of the blind.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of two hundred and fifty thousand dollars, out of money in the United States Treasury not otherwise appropriated, be, and hereby is, set apart as a perpetual fund for the purpose of aiding the education of the blind in the United States of America, through the American Printing House for the Blind.

SEC. 2. That the Secretary of the Treasury of the United States is hereby directed to hold said sum in trust for the purpose aforesaid; and it shall be his duty, upon the passage of this act, to invest said sum in United States interest-bearing bonds, bearing interest at four per centum, of the issue of July, eighteen hundred and seventy, and upon their maturity to reinvest their proceeds in other United States interest-bearing bonds, and so on forever.

SEC. 3. The Secretary of Health, Education, and Welfare is hereby authorized to pay over semiannually, to the trustees of the American Printing House for the Blind, located in Louisville, Kentucky, and chartered in 1858 by the Legislature of Kentucky, upon requisition of their president, countersigned by their treasurer, one-half of such annual appropriation upon the following conditions:

First. (A) Such appropriation shall be expended by the trustees of the American Printing House for the Blind each year in manufacturing and furnishing books and other materials specially adapted for instruction of the blind; and the total amount of such books and other materials so manufactured and furnished by such appropriation shall each year be distributed among all the public and private nonprofit institutions in the States, territories, and possessions of the United States, the Commonwealth of Puerto Rico, and the District of Columbia, in which blind pupils are educated. Each public and private nonprofit institution for the education of the blind shall receive, in books and other materials, upon requisition of its superintendent, that portion of the appropriation as is shown by the ratio between the number of blind pupils in that institution and the total number of blind pupils in all of the public and private nonprofit institutions in which blind pupils are educated. Each chief State school officer shall receive, in books and other materials, upon requisition, that portion of the appropriation as is shown by the ratio between the number of blind pupils in public and private nonprofit institutions (in the State) in which blind pupils are educated, other than institutions to which the preceding sentence is applicable, and the total number of blind pupils in the public and private nonprofit institutions in which blind pupils are educated in all of the States, territories, and possessions of the United States, the Commonwealth of Puerto Rico, and the District of Columbia. The ratio referred to in each of the two immediately preceding sentences shall be computed upon the first Monday in January of each year; and for purposes of such sentences the number of blind pupils in public and private nonprofit institutions in which blind pupils are educated shall be authenticated in such manner and as often as the trustees of the American Printing House for the Blind shall require. For purposes of this Act, an institution for the education of the blind is any institution which provides education exclusively for the blind, or exclusively for the blind and other handicapped children (in which case special classes are provided for the blind); the chief State school officer of a State is the superintendent of public elementary and secondary schools in such State or, if there is none, such other official as the Governor certifies to have comparable responsibility in the State; and a blind pupil is a blind individual pursuing a course of study in an institution of less than college grade.

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[1] 20 Stat. 467; chapter 186.

(B) The portion of the appropriation received by each chief State school officer, in such books and other materials under subparagraph (A) of this paragraph which represents the number of blind pupils in private nonprofit institutions in such State in which blind pupils are educated shall be distributed among such institutions on the basis of the number of blind pupils in each such institution as compared to the total number of such pupils in all of the private nonprofit institutions in which blind pupils are educated in such State.

(C) All books and other materials furnished pursuant to this Act, and control and administration of their use, shall vest only in a public agency. Such books and materials made available pursuant to this Act for use of teachers and blind pupils in any State, Territory, or possession of the United States, the Commonwealth of Puerto Rico, and the District of Columbia in any school shall be limited to those books and materials which have been approved by an appropriate educational authority or agency of such State, Territory, possession, Commonwealth, or District, or any local educational authority thereof, for use, or are used, in a public elementary or secondary school therein.

Second. No part of the appropriation shall be expended in the erection or leasing of buildings; but the trustees of the American Printing House for the Blind may use each year a reasonable sum of the annual appropriation for salaries and other expenses of experts and other staff to assist special committees which may be appointed in performance of their functions, and for expenses of such special committees.

Third. No profit shall be put on any books or tangible apparatus for the instruction of the blind manufactured or furnished by the trustees of said American Printing House for the Blind, located in Louisville, Kentucky; and the price put upon each article so manufactured or furnished shall only be its actual cost.

Fourth. The Secretary of the Treasury of the United States shall have the authority to withhold the income arising from said bonds thus set apart for the education of the blind of the United

States whenever he shall receive satisfactory proof that the trustees of said American Printing House for the Blind, located in Louisville, Kentucky, are not using the income from these bonds for the benefit of the blind in the public and private nonprofit institutions for the education of the Blind in the United States.

Fifth. Before any money be paid to the treasurer of the American Printing House for the Blind by the Secretary of the Treasury of the United States, the treasurer of the American Printing House for the Blind shall execute a bond, with two approved sureties, to the amount of twenty thousand dollars, conditioned that the interest so received shall be expended according to this law and all amendments thereto, which shall be held by the Secretary of the Treasury of the United States, and shall be renewed every two years.

Sixth. The superintendent of each public institution for the education of the blind (or his designee), of each State and possession of the United States, the Commonwealth of Puerto Rico, and the District of Columbia, shall each, ex officio, be a member of the Board of Trustees of the American Printing House for the Blind only for purposes of administering this Act.

SEC. 4. That the trustees of said American Printing House for the Blind shall annually make to the Secretary of the Treasury of the United States a report of the items of their expenditure of the income of said bonds during the year preceding their report, and shall annually furnish him with a voucher from each public and private nonprofit institution for the education of the bond, showing that the amount of books and tangible apparatus due has been received.

SEC. 5. That this act shall take effect from and after its passage.

(See 20 U.S.C. 101 et seq. and note 7 below)

Notes

(1) Effective October 1, 1989, section 402(a) of Public Law 100–630 terminated the perpetual trust fund established pursuant to the Act of March 3, 1879, and the Act of June 25, 1906, and also terminated the permanent annual appropriation for the fund. (The Public Law did not amend these Acts.) See note 2 below for the text of the Act of June 25, 1906. The separate authorization of appropriations for the American Printing House of the Blind is not affected by this termination (see section 403 of the Public Law). See note 3 below for the text of the law that establishes this separate authorization of appropriations.

Section 404 of Public Law 100–630 provides as follows: "Any and all rights of the American Printing House of the Blind determined to have vested in the perpetual trust fund established by the Act of March 3, 1879, shall be deemed to be compensated by the appropriation to the American Printing House for the Blind for fiscal year 1990.".

Section 405 of that Public Law provides as follows: "Notwithstanding any Federal law, reference to the perpetual trust fund and permanent annual appropriations thereof established by the Act of March 3, 1879, shall not be given any effect.".

(2) The Act of June 25, 1906, provides as follows: "That the sum of two hundred and fifty thousand dollars heretofore invested in United States registered four per centum bonds, funded loan of nineteen hundred and seven, inscribed 'Secretary of the Treasury, trustee—interest to the Treasurer of the United States for credit of appropriation 'To promote the education of the blind,' shall upon the maturity and redemption of said bonds on the first day of July, nineteen hundred and seven, in lieu of reinvestment in other Government bonds, be set apart and credited on the books of the Treasury Department as a perpetual trust fund; and the sum of ten thousand dollars, being equivalent to four per centum on the principal of said trust fund, be, and the same is hereby, appropriated, out of any moneys in the Treasury not otherwise appropriated, and such appropriation shall be deemed a permanent

annual appropriation and shall be expended in the manner and for the purposes authorized by the Act approved March third, eighteen hundred and seventy-nine, entitled 'An Act to promote the education of the blind,' approved March 3, 1879.".

(3) The Act of August 4, 1919, as amended by section 403 of Public Law 100–630, provides as follows: "That for the purpose of enabling the American Printing House for the Blind more adequately to provide books and apparatus for the education of the blind, there is hereby authorized to be appropriated annually to it,, such sum as the Congress may determine; which sum shall be expended in accordance with the requirements of said Act, under rules and regulations prescribed by the Secretary of Health, Education, and Welfare, to promote the education of the blind.".

Section 403 of that Public Law amended the above Act (the Act of August 4, 1919) by striking a clause that indicated that the authorization of appropriations provided in the Act was in addition to the permanent appropriation provided in the Act of March 3, 1879. The amendment failed to strike the commas preceding and following the stricken clause (see superfluous commas preceding the term "such sum").

(4) The Act of March 4, 1913, provides in part as follows: "The distribution of embossed books manufactured by the American Printing House for the Blind at Louisville, Kentucky, out of the income of the fund provided by the Act of [March 3, 1879,] shall include one copy of every book so manufactured to be deposited in the Library of Congress at Washington.".

(5) The Act of November 4, 1919, provides in part as follows: "That two copies of each of the publications printed by the American Printing House for the Blind shall be furnished free of charge to the National Library for the Blind located at [1729 H Street Northwest, Washington, District of Columbia].".

(6) Public Law 95–355 provides in part that the American Printing House for the Blind may make purchases through the General Services Administration.

(7) Chapter 6 of title 20, United States Code (20 U.S.C. 101 et seq.), codifies certain provisions relating to the American Printing House for the Blind. In the 1982 edition of the Code, portions of the first section of the Act of March 3, 1879, were codified in section 101 of title 20 of the Code. Also codified in such section were portions of the Act of June 25, 1906, and the Act of August 4, 1919, whose texts are provided in notes above. These Acts affected the operation of the Act of March 3, 1879, but did not amend the Act.

In the 1988 edition of the United States Code (which, unlike the 1982 edition, reflects the provisions of Public Law 100–630), the first section of the Act of March 3, 1879, and the Act of June 25, 1906, are no longer codified because these provisions (relating to a perpetual trust fund) no longer have any legal effect as a result of section 402(a) of Public Law 100–630 (see note 1 above). Section 101 of title 20 of the Code (which formerly codified these provisions) now codifies only the Act of August 4, 1919.

In the 1988 edition of the Code, the other sections of chapter 6 of title 20 are unchanged from the 1982 edition. The second section of the Act of March 3, 1879, is not codified. The third and fourth sections of the Act are codified in sections 102 and 104, respectively. The fifth section of the Act is not codified.

The relevant provisions of the Act of March 4, 1913, the Act of November 4, 1919, and Public Law 95–355, whose texts are provided in notes above, are codified in sections 105, 103, and 106, respectively, of title 20 of the Code. These provisions affect the operation of the Act of March 3, 1879, but did not amend the Act.

ACT OF AUGUST 12, 1968

Act of August 12, 1968[1]

AN ACT To insure that certain buildings financed with Federal funds are so designed and constructed as to be accessible to the physically handicapped.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, as used in this Act, the term "building" means any building or facility (other than (A) a privately owned residential structure not leased by the Government for subsidized housing programs and (B) any building or facility on a military installation designed and constructed primarily for use by able bodied military personnel) the intended use for which either will require that such building or facility be accessible to the public, or may result in the employment or residence therein of physically handicapped persons, which building or facility is—

(1) to be constructed or altered by or on behalf of the United States;

(2) to be leased in whole or in part by the United States after the date of enactment of this Act;

(3) to be financed in whole or in part by a grant or a loan made by the United States after the date of enactment of this Act if such building or facility is subject to standards for design, construction, or alteration issued under authority of the law authorizing such grant or loan; or

(4) to be constructed under authority of the National Capital Transportation Act of 1960, the National Capital Transportation Act of 1965, or title III of the Washington Metropolitan Area Transit Regulation Compact.

(42 U.S.C. 4151)

SEC. 2. The Administrator of General Services, in consultation with the Secretary of Health, Education, and Welfare, shall prescribe standards for the design, construction, and alteration of buildings (other than residential structures subject to this Act and buildings, structures, and facilities of the Department of Defense and of the United States Postal Service subject to this Act) to insure whenever possible that physically handicapped persons will have ready access to, and use of, such buildings.

(42 U.S.C. 4152)

SEC. 3. The Secretary of Housing and Urban Development, in consultation with the Secretary of Health, Education, and Welfare, shall prescribe standards for the design, construction, and alteration of buildings which are residential structures subject to this Act to insure whenever possible that physically handicapped persons will have ready access to, and use of, such buildings.

(42 U.S.C. 4153)

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[1] Public Law 90–480; 82 Stat. 718.

SEC. 4. The Secretary of Defense, in consultation with the Secretary of Health, Education, and Welfare, shall prescribe standards for the design, construction, and alteration of buildings, structures, and facilities of the Department of Defense subject to this Act to insure whenever possible that physically handicapped persons will have ready access to, and use of, such buildings.

(42 U.S.C. 4154)

SEC. 4a. The United States Postal Service, in consultation with the Secretary of Health, Education, and Welfare, shall prescribe such standards for the design, construction, and alteration of its buildings to insure whenever possible that physically handicapped persons will have ready access to, and use of, such buildings.

(42 U.S.C. 4154a)

SEC. 5. Every building designed, constructed, or altered after the effective date of a standard issued under this Act which is applicable to such building, shall be designed, constructed, or altered in accordance with such standard.

(42 U.S.C. 4155)

SEC. 6. The Administrator of General Services, with respect to standards issued under section 2 of this Act, and the Secretary of Housing and Urban Development, with respect to standards issued under section 3 of this Act, and the Secretary of Defense with respect to standards issued under section 4 of this Act, and the United States Postal Service with respect to standards issued under section 4a of this Act—

(1) is authorized to modify or waive any such standard, on a case-by-case basis, upon application made by the head of the department, agency, or instrumentality of the United States concerned, and upon a determination by the Administrator or Secretary, as the case may be, that such modification or waiver is clearly necessary, and

(2) shall establish a system of continuing surveys and investigations to insure compliance with such standards.

(42 U.S.C. 4156)

SEC. 7. (a) The Administrator of General Services shall report to Congress during the first week of January of each year on his activities and those of other departments, agencies, and instrumentalities of the Federal Government under this Act during the preceding fiscal year including, but not limited to, standards issued, revised, amended, or repealed under this Act and all case-by-case modifications, and waivers of such standards during such year.

(b) The Architectural and Transportation Barriers Compliance Board established by section 502 of the Rehabilitation Act of 1973 (Pubic Law 93–112) shall report to the Public Works and Transportation Committee of the House of Representatives and the Public Works Committee of the Senate during the first week of January of each year on its activities and actions to insure compliance with the standards prescribed under this Act.

(42 U.S.C. 4157)

CHILD ABUSE PREVENTION AND TREATMENT ACT

Child Abuse Prevention and Treatment Act

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Child Abuse Prevention and Treatment Act".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

TABLE OF CONTENTS

Sec. 1. Short title and table of contents.
Sec. 2. Findings.

TITLE I—GENERAL PROGRAM

Sec. 101. National Center on Child Abuse and Neglect.
Sec. 102. Advisory Board on Child Abuse and Neglect.
Sec. 103. Inter-Agency Task Force on Child Abuse and Neglect.
Sec. 104. National clearinghouse for information relating to child abuse.
Sec. 105. Research and assistance activities of the National Center on Child Abuse and Neglect.
Sec. 106. Grants to public agencies and nonprofit private organizations for demonstration or service programs and projects.
Sec. 107. Grants to States for child abuse and neglect prevention and treatment programs.
Sec. 107A. Emergency child abuse prevention services grant.
Sec. 108. Technical assistance to States for child abuse prevention and treatment programs.
Sec. 109. Grants to States for programs relating to the investigation and prosecution of child abuse and neglect cases.
Sec. 110. Miscellaneous requirements relating to assistance.
Sec. 111. Coordination of child abuse and neglect programs.
Sec. 112. Reports.
Sec. 113. Definitions.
Sec. 114. Authorization of appropriations.

TITLE II—GRANTS WITH RESPECT TO ENCOURAGING STATES TO MAINTAIN CERTAIN FUNDING MECHANISMS [1]

Sec. 201. [1] Findings and purpose.
Sec. 202. Definitions.
Sec. 203. Grants authorized.
Sec. 204. State eligibility.
Sec. 205. Limitations.
Sec. 206. Withholding.
Sec. 207. Audit.
Sec. 208. Report.

TITLE III—CERTAIN PREVENTIVE SERVICES REGARDING CHILDREN OF HOMELSSS FAMILIES OR FAMILIES AT RISK OF HOMELESSNESS

Sec. 301. Demonstration grants for prevention of inappropriate separation from family and for prevention of child abuse and neglect.
Sec. 302. Provisions with respect to carrying out purpose of demonstration grants.
Sec. 303. Additional required agreements.
Sec. 304. Description of intended uses of grant.

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[1] So in law. Section 121 of P.L. 102–295 amended title II, but failed to conform the table of contents.

Sec. 305. Requirement of submission of application.
Sec. 306. Authorization of appropriations.

(42 U.S.C. 5101 note) Enacted April 25, 1988, P.L. 100–294, sec. 101, 102 Stat. 102; amended Oct. 25, 1989, P.L. 101–126, sec. 3, 103 Stat. 766; amended November 29, 1990, P.L. 101–645, sec. 306(c), 104 Stat. 4760; amended May 28, 1992, P.L. 102–295, secs. 102(b), 115(b), and 116(b), 106 Stat. 189, 195, and 197.

SEC. 2. FINDINGS.

Congress finds that—

(1) each year, hundreds of thousands of American children are victims of abuse and neglect with such numbers having increased dramatically over the past decade;

(2) many of these children and their families fail to receive adequate protection or treatment;

(3) the problem of child abuse and neglect requires a comprehensive approach that—

(A) integrates the work of social service, legal, health, mental health, education, and substance abuse agencies and organizations;

(B) strengthens coordination among all levels of government, and with private agencies, civic, religious, and professional organizations, and individual volunteers;

(C) emphasizes the need for abuse and neglect prevention, investigation, and treatment at the neighborhood level;

(D) ensures properly trained and support staff with specialized knowledge, to carry out their child protection duties; and

(E) is sensitive to ethnic and cultural diversity;

(4) the failure to coordinate and comprehensively prevent and treat child abuse and neglect threatens the futures of tens of thousands of children and results in a cost to the Nation of billions of dollars in direct expenditures for health, social, and special educational services and ultimately in the loss of work productivity;

(5) all elements of American society have a shared responsibility in responding to this national child and family emergency;

(6) substantial reductions in the prevalence and incidence of child abuse and neglect and the alleviation of its consequences are matters of the highest national priority;

(7) national policy should strengthen families to remedy the causes of child abuse and neglect, provide support for intensive services to prevent the unnecessary removal of children from families, and promote the reunification of families if removal has taken place;

(8) the child protection system should be comprehensive, child-centered, family-focused, and community-based, should incorporate all appropriate measures to prevent the occurrence or recurrence of child abuse and neglect, and should promote physical and psychological recovery and social re-integration in an environment that fosters the health, self-respect, and dignity of the child;

(9) because of the limited resources available in low-income communities, Federal aid for the child protection system

should be distributed with due regard to the relative financial need of the communities;

(10) the Federal government should ensure that every community in the United States has the fiscal, human, and technical resources necessary to develop and implement a successful and comprehensive child protection strategy;

(11) the Federal government should provide leadership and assist communities in their child protection efforts by—

(A) promoting coordinated planning among all levels of government;

(B) generating and sharing knowledge relevant to child protection, including the development of models for service delivery;

(C) strengthening the capacity of States to assist communities;

(D) allocating sufficient financial resources to assist States in implementing community plans;

(E) helping communities to carry out their child protection plans by promoting the competence of professional, paraprofessional, and volunteer resources; and

(F) providing leadership to end the abuse and neglect of the nation's children and youth.

(42 U.S.C. 5101 note) Enacted May 28, 1992, P.L. 102–295, sec. 102(a), 106 Stat. 188.

TITLE I—GENERAL PROGRAM[1]

SEC. 101. NATIONAL CENTER ON CHILD ABUSE AND NEGLECT.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services shall establish an office to be known as the National Center on Child Abuse and Neglect.

(b) APPOINTMENT OF DIRECTOR.—

(1) APPOINTMENT.—The Secretary shall appoint a Director of the Center. Except as otherwise provided in this Act, the Director shall be responsible only for administration and operation of the Center and for carrying out the functions of the Center under this Act. The Director shall have experience in the field of child abuse and neglect.

(2) COMPENSATION.—The Director shall be compensated at the annual rate provided for a level GS–15 employee under section 5332 of title 5, United States Code.

(c) OTHER STAFF AND RESOURCES.—The Secretary shall make available to the Center such staff and resources as are necessary for the Center to carry out effectively its functions under this Act. The Secretary shall require that professional staff have experience relating to child abuse and neglect. The Secretary is required to justify, based on the priorities and needs of the Center, the hiring of any professional staff member who does not have experience relating to child abuse and neglect.

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[1] Section 142 of P.L. 102–295 requires the Secretary of Health and Human Services to submit to the appropriate committees of Congress an annual report concerning the measures being taken to assist States in implementing a voluntary reporting system for child abuse and neglect.

(42 U.S.C. 5101) Enacted April 25, 1988, P.L. 100–294, sec. 101, 102 Stat. 103; amended Oct. 25, 1989, P.L. 101–126, sections 2 and 3, 103 Stat. 764.

Note: Section 401 of Public Law 100–294 requires that any rule or regulation needed to implement the amendments made by the Public Law be published as a final regulation before the end of the 195-day period beginning on the date of the enactment of the Public Law. (The Public Law was enacted on April 25, 1988.)

SEC. 102. ADVISORY BOARD ON CHILD ABUSE AND NEGLECT.

(a) APPOINTMENT.—The Secretary shall appoint an advisory board to be known as the Advisory Board on Child Abuse and Neglect.

(b) SOLICITATION OF NOMINATIONS.—The Secretary shall publish a notice in the Federal Register soliciting nominations for the appointments required by subsection (a).

(c) COMPOSITION OF BOARD.—

(1) NUMBER OF MEMBERS.—The board shall consist of 15 members, each of which shall be a person who is recognized for expertise in an aspect of the area of child abuse, of which—

(A) 2 shall be members of the task force established under section 103; and

(B) 13 shall be members of the general public and may not be Federal employees.

(2) REPRESENTATION.—The Secretary shall appoint members from the general public under paragraph (1)(B) who are individuals knowledgeable in child abuse and neglect prevention, intervention, treatment, or research, and with due consideration to representation of ethnic or racial minorities and diverse geographic areas, and who represent—

(A) law (including the judiciary);
(B) psychology (including child development);
(C) social services (including child protective services);
(D) medicine (including pediatrics);
(E) State and local government;
(F) organizations providing services to disabled persons;
(G) organizations providing services to adolescents;
(H) teachers;
(I) parent self-help organizations;
(J) parents' groups; and
(K) voluntary groups.

(3) TERMS OF OFFICE.—(A) Except as otherwise provided in this subsection, members shall be appointed for terms of office of 4 years.

(B) Of the members of the board from the general public first appointed under subsection (a)—

(i) 4 shall be appointed for terms of office of 2 years;

(ii) 4 shall be appointed for terms of office of 3 years; and

(iii) 5 shall be appointed for terms of office of 4 years, as determined by the members from the general public during the first meeting of the board.

(C) No member of the board appointed under subsection (a) shall be eligible to serve in excess of two consecutive terms, but may continue to serve until such member's successor is appointed.

(4) Vacancies.—Any member of the board appointed under subsection (a) to fill a vacancy occurring before the expiration of the term to which such member's predecessor was appointed shall be appointed for the remainder of such term. If the vacancy occurs prior to the expiration of the term of a member of the board appointed under subsection (a), a replacement shall be appointed in the same manner in which the original appointment was made.

(5) Removal.—No member of the board may be removed during the term of office of such member except for just and sufficient cause.

(d) Election of Officers.—The board shall elect a chairperson and vice-chairperson at its first meeting from among the members from the general public.

(e) Meetings.—The board shall meet not less than twice a year at the call of the chairperson. The chairperson, to the maximum extent practicable, shall coordinate meetings of the board with receipt of reports from the task force under section 103(f).

(f) Duties.—The board shall—

(1) annually submit to the Secretary and the appropriate committees of Congress a report containing—

(A) recommendations on coordinating Federal child abuse and neglect activities to prevent duplication and ensure efficient allocations of resources and program effectiveness; and

(B) recommendations as to carrying out the purposes of this Act;

(2) annually submit to the Secretary and the Director a report containing long-term and short-term recommendations on—

(A) programs;

(B) research;

(C) grant and contract needs;

(D) areas of unmet needs; and

(E) areas to which the Secretary should provide grant and contract priorities under sections 105 and 106;

(3) annually review the budget of the Center and submit to the Director a report concerning such review; and

(4) not later than 24 months after the date of the enactment of the Child Abuse Programs, Adoption Opportunities, and Family Violence Prevention Amendments Act of 1992, submit to the Secretary and the appropriate committees of the Congress a report containing the recommendations of the Board with respect to—

(A) a national policy designed to reduce and ultimately to prevent child and youth maltreatment-related deaths, detailing appropriate roles and responsibilities for State and local governments and the private sector;

(B) specific changes needed in Federal laws and programs to achieve an effective Federal role in the implementation of the policy specified in subparagraph (A); and

(C) specific changes needed to improve national data collection with respect to child and youth maltreatment-related deaths.

(g) COMPENSATION.—

(1) IN GENERAL.—Except as provided in paragraph (3), members of the board, other than those regularly employed by the Federal Government, while serving on business of the board, may receive compensation at a rate not in excess of the daily equivalent payable to a GS–18 employee under section 5332 of title 5, United States Code, including traveltime.

(2) TRAVEL.—Except as provided in paragraph (3), members of the board, while serving on business of the board away from their homes or regular places of business, may be allowed travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(3) RESTRICTION.—The Director may not compensate a member of the board under this section if the member is receiving compensation or travel expenses from another source while serving on business of the board.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $1,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995.

(42 U.S.C. 5102) Enacted April 25, 1988, P.L. 100–294, sec. 101, 102 Stat. 102–105; amended Oct. 25, 1989, P.L. 101–126, sec. 3, 103 Stat. 764; amended May 28, 1992, P.L. 102–295, sec. 111, 106 Stat. 190.

SEC. 103. INTER-AGENCY TASK FORCE ON CHILD ABUSE AND NEGLECT.

(a) ESTABLISHMENT.—The Secretary shall establish a task force to be known as the Inter-Agency Task Force on Child Abuse and Neglect.

(b) COMPOSITION.—The Secretary shall request representation for the task force from Federal agencies with responsibility for programs and activities related to child abuse and neglect.

(c) CHAIRPERSON.—The task force shall be chaired by the Director.

(d) DUTIES.—The task force shall—

(1) coordinate Federal efforts with respect to child abuse prevention and treatment programs;

(2) encourage the development by other Federal agencies of activities relating to child abuse prevention and treatment;

(3) coordinate the use of grants received under this Act with the use of grants received under other programs;

(4) prepare a comprehensive plan for coordinating the goals, objectives, and activities of all Federal agencies and organizations which have responsibilities for programs and activities related to child abuse and neglect, and submit such plan to such Advisory Board not later than 12 months after the date of enactment of the Child Abuse Prevention, Adoption, and Family Services Act of 1988; and

(5) coordinate adoption related activities, develop Federal standards with respect to adoption activities under this Act, and prevent duplication with respect to the allocation of resources to adoption activities.

(e) MEETINGS.—The task force shall meet not less than three times annually at the call of the chairperson.

(f) REPORTS.—The task force shall report not less than twice annually to the Center and the Board.

(42 U.S.C. 5103) Enacted April 25, 1988, P.L. 100–294, sec. 101, 102 Stat. 105; amended Oct. 25, 1989, P.L. 101–126, sec. 3, 103 Stat. 764.

SEC. 104. NATIONAL CLEARINGHOUSE FOR INFORMATION RELATING TO CHILD ABUSE.

(a) ESTABLISHMENT.—Before the end of the 2-year period beginning on the date of the enactment of the Child Abuse Prevention, Adoption, and Family Services Act of 1988, the Secretary shall through the Center, or by contract of no less than 3 years duration let through a competition, establish a national clearinghouse for information relating to child abuse.

(b) FUNCTIONS.—The Director shall, through the clearinghouse established by subsection (a)—

(1) maintain, coordinate, and disseminate information on all programs, including private programs, that show promise of success with respect to the prevention, identification, and treatment of child abuse and neglect, including the information provided by the National Center for Child Abuse and Neglect under section 105(b);

(2) maintain and disseminate information relating to—

(A) the incidence of cases of child abuse and neglect in the general population;

(B) the incidence of such cases in populations determined by the Secretary under section 105(a)(1) of the Child Abuse Prevention, Adoption, and Family Services Act of 1988;

(C) the incidence of any such cases related to alcohol or drug abuse; and

(D) State and local recordkeeping with respect to such cases; and

(3) directly or through contract, identify effective programs carried out by the States pursuant to title II and provide technical assistance to the States in the implementation of such programs.

(c) COORDINATION WITH AVAILABLE RESOURCES.—In establishing a national clearinghouse as required by subsection (a), the Director shall—

(1) consult with other Federal agencies that operate similar clearinghouses;

(2) consult with the head of each agency that is represented on the task force on the development of the components for information collection and management of such clearinghouse;

(3) develop a Federal data system involving the elements under subsection (b) which, to the extent practicable, coordinates existing State, regional, and local data systems; and

(4) solicit public comment on the components of such clearinghouse.

(42 U.S.C. 5104) Enacted April 25, 1988, P.L. 100–294, sec. 101, 102 Stat. 105–106; amended Oct. 25, 1989, P.L. 101–126, secs. 3 and 6, 103 Stat. 764.

SEC. 105. RESEARCH AND ASSISTANCE ACTIVITIES OF THE NATIONAL CENTER ON CHILD ABUSE AND NEGLECT.

(a) RESEARCH.—

(1) TOPICS.—The Secretary shall, through the Center, conduct research on—

(A) the causes, prevention, identification,,[1] treatment and cultural distinctions of child abuse and neglect;

(B) appropriate, effective and culturally sensitive investigative, administrative, and judicial procedures with respect to cases of child abuse; and

(C) the national incidence of child abuse and neglect, including—

(i) the extent to which incidents of child abuse are increasing or decreasing in number and severity;

(ii) the relationship of child abuse and neglect to nonpayment of child support, cultural diversity, disabilities, and various other factors; and

(iii) the incidence of substantiated reported child abuse cases that result in civil child protection proceedings or criminal proceedings, including the number of such cases with respect to which the court makes a finding that abuse or neglect exists and the disposition of such cases.

(2) PRIORITIES.—(A) The Secretary shall establish research and demonstration priorities for making grants or contracts for purposes of carrying out paragraph (1)(A) and activities under section 106.

(B) In establishing research and demonstration priorities as required by subparagraph (A), the Secretary shall—

(i) publish proposed priorities in the Federal Register for public comment; and

(ii) allow not less than 60 days for public comment on such proposed priorities.

(b) PUBLICATION AND DISSEMINATION OF INFORMATION.—The Secretary shall, through the Center—

(1) as a part of research activities, establish a national data collection and analysis program—

(A) which, to the extent practicable, coordinates existing State child abuse and neglect reports and which shall include—

(i) standardized data on false, unfounded, or unsubstantiated reports; and

(ii) information on the number of deaths due to child abuse and neglect; and

(B) which shall collect, compile, analyze, and make available State child abuse and neglect reporting information which, to the extent practical, is universal and case specific, and integrated with other case-based foster care and adoption data collected by the Secretary;

(2) annually compile and analyze research on child abuse and neglect and publish a summary of such research;

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[1] So in law. See section 112(a)(1) of P.L. 102–295.

(3) compile, evaluate, publish, and disseminate to the States and to the clearinghouse, established under section 104, materials and information designed to assist the States in developing, establishing, and operating the programs described in section 109, including an evaluation of—

(A) various methods and procedures for the investigation and prosecution of child physical and sexual abuse cases; and

(B) resultant psychological trauma to the child victim;

(4) compile, publish, and disseminate training materials—

(A) for persons who are engaged in or intend to engage in the prevention, identification, and treatment of child abuse and neglect; and

(B) to appropriate State and local officials to assist in training law enforcement, legal, judicial, medical, mental health, and child welfare personnel in appropriate methods of interacting during investigative, administrative, and judicial proceedings with children who have been subjected to abuse; and

(5) establish model information collection systems, in consultation with appropriate State and local agencies and professionals.

(c) PROVISION OF TECHNICAL ASSISTANCE.—The Secretary shall, through the Center, provide technical assistance to public and nonprofit private agencies and organizations, including disability organizations and persons who work with children with disabilities, to assist such agencies and organizations in planning, improving, developing, and carrying out programs and activities relating to the prevention, identification, and treatment of child abuse and neglect.

(d) AUTHORITY TO MAKE GRANTS OR ENTER INTO CONTRACTS.—

(1) IN GENERAL.—The functions of the Secretary under this section may be carried out either directly or through grant or contract.

(2) DURATION.—Grants under this section shall be made for periods of not more than 5 years. The Secretary shall review each such grant at least annually, utilizing peer review mechanisms to assure the quality and progress of research conducted under such grant.

(3) PREFERENCE FOR LONG-TERM STUDIES.—In making grants for purposes of conducting research under subsection (a), the Secretary shall give special consideration to applications for long-term projects.

(e) PEER REVIEW FOR GRANTS.—

(1) ESTABLISHMENT OF PEER REVIEW PROCESS.—(A) The Secretary shall establish a formal peer review process for purposes of evaluating and reviewing applications for grants and contracts under this section and determining the relative merits of the projects for which such assistance is requested.

(B) In establishing the process required by subparagraph (A), the Secretary shall appoint to the peer review panels only members who are experts in the field of child abuse and neglect or related disciplines, with appropriate expertise in the application to be reviewed, and who are not individuals who are officers or employees of the Office of Human Development. The panels shall meet as often as is necessary to facilitate the expeditious review of applications for grants and contracts under this section, but may not meet less than once a year.

(2) Review of applications for assistance.—Each peer review panel established under paragraph (1)(A) that reviews any application for a grant, contract, or other financial assistance shall—

(A) determine and evaluate the merit of each project described in such application;

(B) rank such application with respect to all other applications it reviews in the same priority area for the fiscal year involved, according to the relative merit of all of the projects that are described in such application and for which financial assistance is requested; and

(C) make recommendations to the Secretary concerning whether the application for the project shall be approved.

(3) Notice of approval.—(A) The Secretary shall provide grants and contracts under this section from among the projects which the peer review panels established under paragraph (1)(A) have determined to have merit.

(B) In the instance in which the Secretary approves an application for a program without having approved all applications ranked above such application (as determined under subsection (e)(2)(B)), the Secretary shall append to the approved application a detailed explanation of the reasons relied on for approving the application and for failing to approve each pending application that is superior in merit, as indicated on the list under subsection (e)(2)(B).

(42 U.S.C. 5105) Enacted April 25, 1988, P.L. 100–294, sec. 101, 102 Stat. 106–108; amended Oct. 25, 1989, P.L. 101–126, sec. 3, 103 Stat. 764; amended May 28, 1992, P.L. 102–295, secs. 112, 141(5), 106 Stat. 190, 200.

SEC. 106. GRANTS TO PUBLIC AGENCIES AND NONPROFIT PRIVATE ORGANIZATIONS FOR DEMONSTRATION OR SERVICE PROGRAMS AND PROJECTS.

(a) General Authority.—

(1) Demonstration or service programs and projects.—The Secretary, through the Center, shall, in accordance with subsections (b) and (c), make grants to, and enter into contracts with, public agencies or nonprofit private organizations (or combinations of such agencies or organizations) for demonstration or service programs and projects designed to prevent, identify, and treat child abuse and neglect.

(2) Evaluations.—In making grants or entering into contracts for demonstration projects, the Secretary shall require all such projects to be evaluated for their effectiveness. Funding for such evaluations shall be provided either as a stated percentage of a demonstration grant or contract, or as a separate grant or contract entered into by the Secretary for the purpose of evaluating a particular demonstration project or group of projects.

(b) Grants for Resource Centers.—The Secretary shall, directly or through grants or contracts with public or private nonprofit organizations under this section, provide for the establishment of resource centers—

(1) serving defined geographic areas;

(2) staffed by multidisciplinary teams of personnel trained in the prevention, identification, and treatment of child abuse and neglect; and

(3) providing advice and consultation to individuals, agencies, and organizations which request such services.

(c) DISCRETIONARY GRANTS.—In addition to grants or contracts made under subsection (b), grants or contracts under this section may be used for the following:

(1) Training programs—

(A) for professional and paraprofessional personnel in the fields of medicine, law, education, social work, and other relevant fields who are engaged in, or intend to work in, the field of prevention, identification, and treatment of child abuse and neglect;

(B) to provide culturally specific instruction in methods of protecting children from child abuse and neglect to children and to persons responsible for the welfare of children, including parents of and persons who work with children with disabilities; or

(C) to improve the recruitment, selection, and training of volunteers serving in private and public nonprofit children, youth and family service organizations in order to prevent child abuse and neglect through collaborative analysis of current recruitment, selection, and training programs and development of model programs for dissemination and replication nationally.

(2) Such other innovative programs and projects as the Secretary may approve, including programs and projects for parent self-help, for prevention and treatment of alcohol and drug-related child abuse and neglect, and for home health visitor programs designed to reach parents of children in populations in which risk is high, that show promise of successfully preventing and treating cases of child abuse and neglect, and for a parent self-help program of demonstrated effectiveness which is national in scope.

(3) Projects which provide educational identification, prevention, and treatment services in cooperation with preschool and elementary and secondary schools.

(4) Respite and crisis nursery programs provided by community-based organizations under the direction and supervision of hospitals.

(5) Respite and crisis nursery programs provided by community-based organizations.

(6)(A) Providing hospital-based information and referral services to—

(i) parents of children with disabilities; and

(ii) children who have been neglected or abused and their parents.

(B) Except as provided in subparagraph (C)(iii), services provided under a grant received under this paragraph shall be provided at the hospital involved—

(i) upon the birth or admission of a child with disabilities; and

(ii) upon the treatment of a child for abuse or neglect.

(C) Services, as determined as appropriate by the grantee, provided under a grant received under this paragraph shall be hospital-based and shall consist of—

(i) the provision of notice to parents that information relating to community services is available;

(ii) the provision of appropriate information to parents of a child with disabilities regarding resources in the community, particularly parent training resources, that will assist such parents in caring for their child;

(iii) the provision of appropriate information to parents of a child who has been neglected or abused regarding resources in the community, particularly parent training resources, that will assist such parents in caring for their child and reduce the possibility of abuse or neglect;

(iv) the provision of appropriate follow-up services to parents of a child described in subparagraph (B) after the child has left the hospital; and

(v) where necessary, assistance in coordination of community services available to parents of children described in subparagraph (B).

The grantee shall assure that parental involvement described in this subparagraph is voluntary.

(D) For purposes of this paragraph, a qualified grantee is a nonprofit acute care hospital that—

(i) is in a combination with—

(I) a health-care provider organization;

(II) a child welfare organization;

(III) a disability organization; and

(IV) a State child protection agency;

(ii) submits an application for a grant under this paragraph that is approved by the Secretary;

(iii) maintains an office in the hospital involved for purposes of providing services under such grant;

(iv) provides assurances to the Secretary that in the conduct of the project the confidentiality of medical, social, and personal information concerning any person described in subparagraph (A) or (B) shall be maintained, and shall be disclosed only to qualified persons providing required services described in subparagraph (C) for purposes relating to conduct of the project; and

(v) assumes legal responsibility for carrying out the terms and conditions of the grant.

(E) In awarding grants under this paragraph, the Secretary shall—

(i) give priority under this section for two grants under this paragraph, provided that one grant shall be made to provide services in an urban setting and one grant shall be made to provide services in rural setting; and

(ii) encourage qualified grantees to combine the amounts received under the grant with other funds available to such grantees.

(7) Such other innovative programs and projects that show promise of preventing and treating cases of child abuse and neglect as the Secretary may approve.

(42 U.S.C. 5106) Enacted April 25, 1988, P.L. 100–294, sec. 101, 102 Stat. 108–110; amended Oct. 25, 1989, P.L. 101–126, sec. 3, 103 Stat. 764; amended May 28, 1992, P.L. 102–295, secs. 113, 141(1), (2), and (5), 106 Stat. 191, 199–200.

SEC. 107. GRANTS TO STATES FOR CHILD ABUSE AND NEGLECT PREVENTION AND TREATMENT PROGRAMS.

(a)[1] DEVELOPMENT AND OPERATION GRANTS.—The Secretary, acting through the Center, shall make grants to the States, based on the population of children under the age of 18 in each State that applies for a grant under this section, for purposes of assisting the States in improving the child protective service system of each such State in—

(1) the intake and screening of reports of abuse and neglect through the improvement of the receipt of information, decisionmaking, public awareness, and training of staff;

(2)(A) investigating such reports through improving response time, decisionmaking, referral to services, and training of staff;

(B) creating and improving the use of multidisciplinary teams and interagency protocols to enhance investigations; and

(C) improving legal preparation and representation;

(3) case management and delivery services provided to families through the improvement of response time in service provision, improving the training of staff, and increasing the numbers of families to be served;

(4) enhancing the general child protective system by improving assessment tools, automation systems that support the program, information referral systems, and the overall training of staff to meet minimum competencies; or

(5) developing, strengthening, and carrying out child abuse and neglect prevention, treatment, and research programs.

Not more than 15 percent of a grant under this subsection may be expended for carrying out paragraph (5). The preceding sentence does not apply to any program or activity authorized in any of paragraphs (1) through (4).

(b) ELIGIBILITY REQUIREMENTS.—In order for a State to qualify for a grant under subsection (a), such State shall—

(1) have in effect a State law relating to child abuse and neglect, including—

(A) provisions for the reporting of known and suspected instances of child abuse and neglect; and

(B) provisions for immunity from prosecution under State and local laws for persons who report instances of child abuse or neglect for circumstances arising from such reporting;

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[1] Subsection (a) was amended in its entirety by section 114(a) of P.L. 102–295, and subsection (c) was added by section 114(b) of that Public Law. The effective dates for these amendments were delayed by section 114(d) of such law, which provides as follows:

"(d) DELAYED EFFECTIVE DATE FOR NEW REQUIREMENTS.—The amendments described in subsections (a) and (b) are made upon the date of the enactment of this Act. Such amendments take effect on October 1, 1993, or on October 1 of the first fiscal year for which $40,000,000 or more is made available under subsection (a)(2)(B)(ii) of section 114 of the Child Abuse Prevention and Treatment Act (as amended by section 117 of this Act), whichever occurs first. Prior to such amendments taking effect, section 107(a) of the Child Abuse Prevention and Treatment Act, as in effect on the day before the date of the enactment of this Act, continues to be in effect.".

(2) provide that upon receipt of a report of known or suspected instances of child abuse or neglect an investigation shall be initiated promptly to substantiate the accuracy of the report, and, upon a finding of abuse or neglect, immediate steps shall be taken to protect the health and welfare of the abused or neglected child and of any other child under the same care who may be in danger of abuse or neglect;

(3) demonstrate that there are in effect throughout the State, in connection with the enforcement of child abuse and neglect laws and with the reporting of suspected instances of child abuse and neglect, such—

(A) administrative procedures;

(B) personnel trained in child abuse and neglect prevention and treatment;

(C) training procedures;

(D) institutional and other facilities (public and private); and

(E) such related multidisciplinary programs and services,

as may be necessary or appropriate to ensure that the State will deal effectively with child abuse and neglect cases in the State;

(4) provide for—

(A) methods to preserve the confidentiality of all records in order to protect the rights of the child and of the child's parents or guardians, including methods to ensure that disclosure (and redisclosure) of information concerning child abuse or neglect involving specific individuals is made only to persons or entities that the State determines have a need for such information directly related to purposes of this Act; and

(B) requirements for the prompt disclosure of all relevant information to any Federal, State, or local governmental entity, or any agent of such entity, with a need for such information in order to carry out its responsibilities under law to protect children from abuse and neglect;

(5) provide for the cooperation of law enforcement officials, courts of competent jurisdiction, and appropriate State agencies providing human services;

(6) provide that in every case involving an abused or neglected child which results in a judicial proceeding a guardian ad litem shall be appointed to represent the child in such proceedings;

(7) provide that the aggregate of support for programs or projects related to child abuse and neglect assisted by State funds shall not be reduced below the level provided during fiscal year 1973, and set forth policies and procedures designed to ensure that Federal funds made available under this Act for any fiscal year shall be so used as to supplement and, to the extent practicable, increase the level of State funds which would, in the absence of Federal funds, be available for such programs and projects;

(8) provide for dissemination of information, including efforts to encourage more accurate reporting, to the general public with respect to the problem of child abuse and neglect and the facilities and prevention and treatment methods available to combat instances of child abuse and neglect;

(9) to the extent feasible, ensure that parental organizations combating child abuse and neglect receive preferential treatment; and

(10) have in place for the purpose of responding to the reporting of medical neglect (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions), procedures or programs, or both (within the State child protective services system), to provide for—

(A) coordination and consultation with individuals designated by and within appropriate health-care facilities;

(B) prompt notification by individuals designated by and within appropriate health-care facilities of cases of suspected medical neglect (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions); and

(C) authority, under State law, for the State child protective service system to pursue any legal remedies, including the authority to initiate legal proceedings in a court of competent jurisdiction, as may be necessary to prevent the withholding of medically indicated treatment from disabled infants with life-threatening conditions.

(c)[1] STATE PROGRAM PLAN.—To be eligible to receive a grant under this section, a State shall submit every four years a plan to the Secretary that specifies the child protective service system area or areas described in subsection (a) that the State intends to address with funds received under the grant. The plan shall describe the current system capacity of the State in the relevant area or areas from which to assess programs with grant funds and specify the manner in which funds from the State's programs will be used to make improvements. The plan required under this subsection shall contain, with respect to each area in which the State intends to use funds from the grant, the following information with respect to the State:

(1) INTAKE AND SCREENING.—

(A) STAFFING.—The number of child protective service workers responsible for the intake and screening of reports of abuse and neglect relative to the number of reports filed in the previous year.

(B) TRAINING.—The types and frequency of pre-service and in-service training programs available to support direct line and supervisory personnel in report-taking, screening, decision-making, and referral for investigation.

(C) PUBLIC EDUCATION.—An assessment of the State or local agency's public education program with respect to—

(i) what is child abuse and neglect;

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[1] See footnote 1 on page 25.

(ii) who is obligated to report and who may choose to report; and

(iii) how to report.

(2) INVESTIGATION OF REPORTS.—

(A) RESPONSE TIME.—The number of reports of child abuse and neglect filed in the State in the previous year where appropriate, the agency response time to each with respect to initial investigation, the number of substantiated and unsubstantiated reports, and where appropriate, the response time with respect to the provision of services.

(B) STAFFING.—The number of child protective service workers responsible for the investigation of child abuse and neglect reports relative to the number of reports investigated in the previous year.

(C) INTERAGENCY COORDINATION.—A description of the extent to which interagency coordination processes exist and are available Statewide, and whether protocols or formal policies governing interagency relationships exist in the following areas—

(i) multidisciplinary investigation teams among child welfare and law enforcement agencies;

(ii) interagency coordination for the prevention, intervention and treatment of child abuse and neglect among agencies responsible for child protective services, criminal justice, schools, health, mental health, and substance abuse; and

(iii) special interagency child fatality review panels, including a listing of those agencies that are involved.

(D) TRAINING.—The types and frequency of pre-service and in-service training programs available to support direct line and supervisory personnel in such areas as investigation, risk assessment, court preparation, and referral to and provision of services.

(E) LEGAL REPRESENTATION.—A description of the State agency's current capacity for legal representation, including the manner in which workers are prepared and trained for court preparation and attendance, including procedures for appealing substantiated reports of abuse and neglect.

(3) CASE MANAGEMENT AND DELIVERY OF ONGOING FAMILY SERVICES.—For children for whom a report of abuse and neglect has been substantiated and the children remain in their own homes and are not currently at risk of removal, the State shall assess the activities and the outcomes of the following services:

(A) RESPONSE TIME.—The number of cases opened for services as a result of investigation of child abuse and neglect reports filed in the previous year, including the response time with respect to the provision of services from the time of initial report and initial investigation.

(B) STAFFING.—The number of child protective service workers responsible for providing services to children and their families in their own homes as a result of investigation of reports of child abuse and neglect.

(C) TRAINING.—The types and frequency of pre-service and in-service training programs available to support direct line and supervisory personnel in such areas as risk assessment, court preparation, provision of services and determination of case disposition, including how such training is evaluated for effectiveness.

(D) INTERAGENCY COORDINATION.—The extent to which treatment services for the child and other family members are coordinated with child welfare, social service, mental health, education, and other agencies.

(4) GENERAL SYSTEM ENHANCEMENT.—

(A) AUTOMATION.—A description of the capacity of current automated systems for tracking reports of child abuse and neglect from intake through final disposition and how personnel are trained in the use of such system.

(B) ASSESSMENT TOOLS.—A description of whether, how, and what risk assessment tools are used for screening reports of abuse and neglect, determining whether child abuse and neglect has occurred, and assessing the appropriate level of State agency protection and intervention, including the extent to which such tool is used statewide and how workers are trained in its use.

(C) INFORMATION AND REFERRAL.—A description and assessment of the extent to which a State has in place—

(i) information and referral systems, including their availability and ability to link families to various child welfare services such as homemakers, intensive family-based services, emergency caretakers, home health visitors, daycare and services outside the child welfare system such as housing, nutrition, health care, special education, income support, and emergency resource assistance; and

(ii) efforts undertaken to disseminate to the public information concerning the problem of child abuse and neglect and the prevention and treatment programs and services available to combat instances of such abuse and neglect.

(D) STAFF CAPACITY AND COMPETENCE.—An assessment of basic and specialized training needs of all staff and current training provided staff. Assessment of the competencies of staff with respect to minimum knowledge in areas such as child development, cultural and ethnic diversity, functions and relationship of other systems to child protective services and in specific skills such as interviewing, assessment, and decisionmaking relative to the child and family, and the need for training consistent with such minimum competencies.

(5) INNOVATIVE APPROACHES.—A description of—

(A) research and demonstration efforts for developing, strengthening, and carrying out child abuse and neglect prevention, treatment, and research programs, including the interagency efforts at the State level; and

(B) the manner in which proposed research and development activities build on existing capacity in the programs being addressed.

(d) Waivers.—

(1) General rule.—Subject to paragraph (3) of this subsection [1], any State which does not qualify for assistance under this subsection [1] may be granted a waiver of any requirement under paragraph (2) of this subsection— [1]

(A) for a period of not more than one year, if the Secretary makes a finding that such State is making a good faith effort to comply with any such requirement, and for a second one-year period if the Secretary makes a finding that such State is making substantial progress to achieve such compliance; or

(B) for a nonrenewable period of not more than two years in the case of a State the legislature of which meets only biennially, if the Secretary makes a finding that such State is making a good faith effort to comply with such requirement.

(2) Extension.—(A) Subject to paragraph (3) of this subsection, any State whose waiver under paragraph (1) expired as of the end of fiscal year 1986 may be granted an extension of such waiver, if the Secretary makes a finding that such State is making a good faith effort to comply with the requirements under subsection (b) of this section—

(i) through the end of fiscal year 1988; or

(ii) in the case of a State the legislature of which meets biennially, through the end of the fiscal year 1989 or the end of the next regularly scheduled session of such legislature, whichever is earlier.

(B) This provision shall be effective retroactively to October 1, 1986.

(3) Requirements under subsection (b)(10).—No waiver under paragraph (1) or (2) may apply to any requirement under subsection (b)(10) of this section.

(e) Reduction of Funds in Case of Failure To Obligate.—If a State fails to obligate funds awarded under subsection (a) before the expiration of the 18-month period beginning on the date of such award, the next award made to such State under this section after the expiration of such period shall be reduced by an amount equal of the amount of such unobligated funds unless the Secretary determines that extraordinary reasons justify the failure to so obligate.

(f) Restrictions Relating to Child Welfare Services.—Programs or projects relating to child abuse and neglect assisted under part B of title IV of the Social Security Act shall comply with the requirements set forth in paragraphs (1)(A), (2), (4), (5), and (10) of subsection (b).

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[1] Section 114(c) of P.L. 102–295 (106 Stat. 195) provides that section 107(d) is amended in the matter preceding subparagraph (A) by striking "this subsection" and inserting "subsection (a)". The amendment cannot be executed because it does not specify to which instance of the term "this subsection" the amendment applies. The amendment also does not specify to which paragraph the amendment applies.

(g) Compliance and Education Grants.—The Secretary is authorized to make grants to the States for purposes of developing, implementing, or operating—

(1) the procedures or programs required under subsection (b)(10);

(2) information and education programs or training programs designed to improve the provision of services to disabled infants with life-threatening conditions for—

(A) professional and paraprofessional personnel concerned with the welfare of disabled infants with life-threatening conditions, including personnel employed in child protective services programs and health-care facilities; and

(B) the parents of such infants; and

(3) programs to assist in obtaining or coordinating necessary services for families of disabled infants with life-threatening conditions, including—

(A) existing social and health services;

(B) financial assistance; and

(C) services necessary to facilitate adoptive placement of any such infants who have been relinquished for adoption.

(42 U.S.C. 5106a) Enacted April 25, 1988, P.L. 100–294, sec. 101, 102 Stat. 110–113; amended Oct. 25, 1989, P.L. 101–126, sec. 3, 103 Stat. 764; amended May 28, 1992, P.L. 102–295, sec. 114, 106 Stat. 192; amended Nov. 4, 1992, P.L. 102–586, sec. 9(b), 106 Stat. 5037.

SEC. 107A. EMERGENCY CHILD ABUSE PREVENTION SERVICES GRANT.

(a) Establishment.—The Secretary shall establish a program to make grants to eligible entities to enable such entities to provide services to children whose parents are substance abusers.

(b) Eligible Entities.—Entities eligible to receive a grant under this section shall be—

(1) State and local agencies that are responsible for administering child abuse or related child abuse intervention services; and

(2) community and mental health agencies and nonprofit youth-serving organizations with experience in providing child abuse prevention services.

(c) Application.—

(1) In general.—To be eligible to receive a grant under this section, an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may by regulation require.

(2) Assurance of use.—An application submitted under paragraph (1) shall—

(A) contain an assurance that the applicant operates in a geographic area where child abuse has placed substantial strains on State and local agencies and has resulted in substantial increases in the need for services that cannot be met without funds available under this section;

(B) identify the responsible agency or agencies that will be involved in the use of funds provided under this section;

(C) contain a description of emergency situations with regard to children of substance abusers who need services of the type described in this section;

(D) contain a plan for improving the delivery of such services to such children;

(E) contain assurances that such services will be provided in a comprehensive multi-disciplinary and coordinated manner; and

(F) contain any additional information as the Secretary may reasonably require.

(d) Use of Funds.—Funds received by an entity under this section shall be used to improve the delivery of services to children whose parents are substance abusers. Such services may include—

(1) the hiring of additional personnel by the entity to reduce caseloads;

(2) the provision of additional training for personnel to improve their ability to provide emergency child abuse prevention services related to substance abuse by the parents of such children;

(3) the provision of expanded services to deal with family crises created by substance abuse; and

(4) the establishment or improvement of coordination between the agency administering the grant, and—

(A) child advocates;

(B) public educational institutions;

(C) community-based organizations that serve substance abusing parents, including pregnant and postpartum females and their infants; and

(D) parents and representatives of parent groups and related agencies.

(e) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section, $40,000,000 for fiscal year 1990, such sums as may be necessary for fiscal year 1991, $40,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995.

(42 U.S.C. 5106a–1) Enacted Dec. 12, 1989, P.L. 101–226, sec. 21, 103 Stat. 1937; amended May 28, 1992, P.L. 102–295, sec. 115(a), 106 Stat. 195.

SEC. 108. TECHNICAL ASSISTANCE TO STATES FOR CHILD ABUSE PREVENTION AND TREATMENT PROGRAMS.

(a) Training and Technical Assistance.—The Secretary shall provide, directly or through grants or contracts with public or private nonprofit organizations, for—

(1) training and technical assistance programs to assist States in developing, implementing, or operating programs and procedures meeting the requirements of section 107(b)(10); and

(2) the establishment and operation of national and regional information and resource clearinghouses for the purpose of providing the most current and complete information regarding medical treatment procedures and resources and community resources for the provision of services and treatment to disabled infants with life-threatening conditions, including—

(A) compiling, maintaining, updating, and disseminating regional directories of community services and resources (including the names and phone numbers of State and local medical organizations) to assist parents, families, and physicians; and

(B) attempting to coordinate the availability of appropriate regional education resources for health-care personnel.

(b) Limitation on Funding.—Not more than $1,000,000 of the funds appropriated for any fiscal year for purposes of carrying out this title may be used to carry out this section.

(42 U.S.C. 5106b) Enacted April 25, 1988, P.L. 100–294, sec. 101, 102 Stat. 113; amended Oct. 25, 1989, P.L. 101–126, sec. 3, 103 Stat. 764.

SEC. 109. GRANTS TO STATES FOR PROGRAMS RELATING TO THE INVESTIGATION AND PROSECUTION OF CHILD ABUSE AND NEGLECT CASES.

(a) Grants to States.—The Secretary, acting through the Center and in consultation with the Attorney General, is authorized to make grants to the States for the purpose of assisting States in developing, establishing, and operating programs designed to improve—

(1) the handling of child abuse and neglect cases, particularly cases of child sexual abuse and exploitation, in a manner which limits additional trauma to the child victim;

(2) the handling of cases of suspected child abuse or neglect related fatalities; and

(3) the investigation and prosecution of cases of child abuse and neglect, particularly child sexual abuse and exploitation.

(b) Eligibility Requirements.—In order for a State to qualify for assistance under this section, such State shall—

(1) fulfill the requirements of sections [1] 107(b);

(2) establish a task force as provided in subsection (c);

(3) fulfill the requirements of subsection (d);

(4) submit annually an application to the Secretary at such time and containing such information and assurances as the Secretary considers necessary, including an assurance that the State will—

(A) make such reports to the Secretary as may reasonably be required; and

(B) maintain and provide access to records relating to activities under subsections (a) and (b); and

(5) submit annually to the Secretary a report on the manner in which assistance received under this program was expended throughout the State, with particular attention focused on the areas described in paragraphs (1) through (3) of subsection (a).

(c) State Task Forces.—

(1) General rule.—Except as provided in paragraph (2), a State requesting assistance under this section shall establish or designate, and maintain [2] a State multidisciplinary task force on children's justice (hereinafter referred to as "State

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[1] So in law. See section 116(a)(3)(A) of P.L. 102–295. Probably should be "section".

[2] So in law. See section 116(a)(4)(A)(i) of P.L. 102–295. There probably should be a comma after "maintain".

task force") composed of professionals with knowledge and experience relating to the criminal justice system and issues of child physical abuse, child neglect, child sexual abuse and exploitation, and child maltreatment related fatalities. The State task force shall include—

(A) individuals representing the law enforcement community;

(B) judges and attorneys involved in both civil and criminal court proceedings related to child abuse and neglect (including individuals involved with the defense as well as the prosecution of such cases);

(C) child advocates, including both attorneys for children and, where such programs are in operation, court appointed special advocates;

(D) health and mental health professionals;

(E) individuals representing child protective service agencies;

(F) individuals experienced in working with children with disabilities [1]

(G) parents; and

(H) representatives of parents' groups.

(2) EXISTING TASK FORCE.—As determined by the Secretary, a State commission or task force established after January 1, 1983, with substantially comparable membership and functions, may be considered the State task force for purposes of this subsection.

(d) STATE TASK FORCE STUDY.—Before a State receives assistance under this section, and at three year intervals thereafter, the State task force shall comprehensively—

(1) review and evaluate State investigative, administrative and both civil and criminal judicial handling of cases of child abuse and neglect, particularly child sexual abuse and exploitation, as well as cases involving suspected child maltreatment related fatalities and cases involving a potential combination of jurisdictions, such as interstate, Federal-State, and State-Tribal; [2]

(2) make policy and training recommendations in each of the categories described in subsection (e).

The task force may make such other comments and recommendations as are considered relevant and useful.

(e) ADOPTION OF STATE TASK FORCE RECOMMENDATIONS.—

(1) GENERAL RULE.—Subject to the provisions of paragraph (2), before a State receives assistance under this section, a State shall adopt recommendations of the State task force in each of the following categories—

(A) investigative, administrative, and judicial handling of cases of child abuse and neglect, particularly child sexual abuse and exploitation, as well as cases involving suspected child maltreatment related fatalities and cases involving a potential combination of jurisdictions, such as interstate, Federal-State, and State-Tribal, in a manner which reduces the additional trauma to the child victim and the victim's family and which also ensures procedural fairness to the accused;

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[1] So in law. Section 116(a)(4)(D) of P.L. 102–295 struck out "handicaps;" and inserted "disabilities", without a semicolon.

[2] So in law. See section 116(a)(5)(B) of P.L. 102–295. Probably should end with "and".

(B) experimental, model and demonstration programs for testing innovative approaches and techniques which may improve the rate[1] of successful prosecution or enhance the effectiveness of judicial and administrative action in child abuse cases, particularly child sexual abuse cases, and which also ensure procedural fairness to the accused; and

(C) reform of State laws, ordinances, regulations, protocols and procedures to provide comprehensive protection for children from abuse, particularly child sexual abuse and exploitation, while ensuring fairness to all affected persons.

(2) EXEMPTION.—As determined by the Secretary, a State shall be considered to be in fulfillment of the requirements of this subsection if—

(A) the State adopts an alternative to the recommendations of the State task force, which carries out the purpose of this section, in each of the categories under paragraph (1) for which the State task force's recommendations are not adopted; or

(B) the State is making substantial progress toward adopting recommendations of the State task force or a comparable alternative to such recommendations.

(f) FUNDS AVAILABLE.[2]—For grants under this section, the Secretary shall use the amount authorized by section 1404A[3] of the Victims of Crime Act of 1984.

(42 U.S.C. 5106c) Enacted April 25, 1988, P.L. 100–294, sec. 101, 102 Stat. 113–115; amended Oct. 25, 1989, P.L. 101–126, sections 2 and 3, 103 Stat. 764–765; amended May 28, 1992, P.L. 102–295, sec. 116(a), 106 Stat. 195.

SEC. 110. MISCELLANEOUS REQUIREMENTS RELATING TO ASSISTANCE.

(a) CONSTRUCTION OF FACILITIES.—

(1) RESTRICTION ON USE OF FUNDS.—Assistance provided under this Act may not be used for construction of facilities.

(2) LEASE, RENTAL, OR REPAIR.—The Secretary may authorize the use of funds received under this Act—

(A) where adequate facilities are not otherwise available, for the lease or rental of facilities; or

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[1] The amendment described in section 116(a)(6)(B) of P.L. 102–295 cannot be executed. The amendatory instructions are to strike out "improve the rate" and all that follows through "abuse cases" in subparagraph (B), and inserting in lieu thereof certain language. The instructions do not specify to which instance of the terms "abuse cases" the amendment applies. The language to have been inserted is as follows: "improve the prompt and successful resolution of civil and criminal court proceedings or enhance the effectiveness of judicial and administrative action in child abuse and neglect cases, particularly child sexual abuse and exploitation cases, including the enhancement of performance of court-appointed attorneys and guardians ad litem for children".

[2] Beginning in fiscal year 1989, 15 percent of the funds previously reserved under this section for this activity will be reserved for grants to Native American Indian Tribes administered through the Department of Justice. See section 7124, Public Law 100–690 (102 Stat. 4423), which was enacted on Nov. 18, 1988.

[3] Reserves 4.5 percent of the Victims of Crime Act Fund for this activity. See section 10601(d)(2)(A)(iv) of title 42, United States Code.

(B) for the repair or minor remodeling or alteration of existing facilities.

(b) GEOGRAPHICAL DISTRIBUTION.—The Secretary shall establish criteria designed to achieve equitable distribution of assistance under this Act among the States, among geographic areas of the Nation, and among rural and urban areas of the Nation. To the extent possible, the Secretary shall ensure that the citizens of each State receive assistance from at least one project under this Act.

(c) PREVENTION ACTIVITIES.—The Secretary, in consultation with the task force and the board, shall ensure that a majority share of assistance under this Act is available for discretionary research and demonstration grants.

(d) LIMITATION.—No funds appropriated for any grant or contract pursuant to authorizations made in this Act may be used for any purpose other than that for which such funds were authorized to be appropriated.

(42 U.S.C. 5106d) Enacted April 25, 1988, P.L. 100–294, sec. 101, 102 Stat. 115; amended Oct. 25, 1989, P.L. 101–126, sec. 3, 103 Stat. 764.

SEC. 111. COORDINATION OF CHILD ABUSE AND NEGLECT PROGRAMS.

The Secretary shall prescribe regulations and make such arrangements as may be necessary or appropriate to ensure that there is effective coordination among programs related to child abuse and neglect under this Act and other such programs which are assisted by Federal funds.

(42 U.S.C. 5106e) Enacted April 25, 1988, P.L. 100–294, sec. 101, 102 Stat. 116; amended Oct. 25, 1989, P.L. 101–126, sec. 3, 103 Stat. 764.

SEC. 112. REPORTS.

(a) COORDINATION EFFORTS.—Not later than March 1 of the second year following the date of enactment of the Child Abuse Prevention, Adoption, and Family Services Act of 1988 and every 2 years thereafter, the Secretary shall submit to the appropriate committees of Congress a report on efforts during the 2-year period preceding the date of the report to coordinate the objectives and activities of agencies and organizations which are responsible for programs and activities related to child abuse and neglect.

(b) EFFECTIVENESS OF STATE PROGRAMS AND TECHNICAL ASSISTANCE.—Not later than two years after the first fiscal year for which funds are obligated under section 1404A of the Victims of Crime Act of 1984, the Secretary shall submit to the appropriate committees of Congress a report evaluating the effectiveness of—

(1) assisted programs in achieving the objectives of section 109; and

(2) the technical assistance provided under section 108.

(42 U.S.C. 5106f) Enacted April 25, 1988, P.L. 100–294, sec. 101, 102 Stat. 116; amended Oct. 25, 1989, P.L. 101–126, sec. 3, 103 Stat. 764.

SEC. 113. DEFINITIONS.

For purposes of this title—

(1) the term "board" means the Advisory Board on Child Abuse and Neglect established under section 102;

(2) the term "Center" means the National Center on Child Abuse and Neglect established under section 101;

(3) the term "child" means a person who has not attained the lesser of—

(A) the age of 18; or

(B) except in the case of sexual abuse, the age specified by the child protection law of the State in which the child resides;

(4) the term "child abuse and neglect" means the physical or mental injury, sexual abuse or exploitation, negligent treatment, or maltreatment of a child by a person who is responsible for the child's welfare, under circumstances which indicate that the child's health or welfare is harmed or threatened thereby, as determined in accordance with regulations prescribed by the Secretary;

(5) the term "person who is responsible for the child's welfare" includes—

(A) any employee of a residential facility; and

(B) any staff person providing out-of-home care;

(6) the term "Secretary" means the Secretary of Health and Human Services;

(7) the term "sexual abuse" includes—

(A) the employment, use, persuasion, inducement, enticement, or coercion of any child to engage in, or assist any other person to engage in, any sexually explicit conduct or simulation of such conduct for the purpose of producing a visual depiction of such conduct; or

(B) the rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children;

(8) the term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands;

(9) the term "task force" means the Inter-Agency Task Force on Child Abuse and Neglect established under section 103; and

(10) the term "withholding of medically indicated treatment" means the failure to respond to the infant's life-threatening conditions by providing treatment (including appropriate nutrition, hydration, and medication) which, in the treating physician's or physicians' reasonable medical judgment, will be most likely to be effective in ameliorating or correcting all such conditions, except that the term does not include the failure to provide treatment (other than appropriate nutrition, hydration, or medication) to an infant when, in the treating physician's or physicians' reasonable medical judgment—

(A) the infant is chronically and irreversibly comatose;

(B) the provision of such treatment would—

(i) merely prolong dying;

(ii) not be effective in ameliorating or correcting all of the infant's life-threatening conditions; or

(iii) otherwise be futile in terms of the survival of the infant; or

(C) the provision of such treatment would be virtually futile in terms of the survival of the infant and the treatment itself under such circumstances would be inhumane.

(42 U.S.C. 5106g) Enacted April 25, 1988, P.L. 100–294, sec. 101, 102 Stat. 116–117; amended Oct. 25, 1989, P.L. 101–126, sec. 3, 103 Stat. 764.

SEC. 114. AUTHORIZATION OF APPROPRIATIONS.

(a)[1] IN GENERAL.—

(1) AUTHORIZATION.—There are authorized to be appropriated to carry out this title, except for section 107A, $100,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995.

(2) ALLOCATIONS.—

(A) Of the amounts appropriated under paragraph (1) for a fiscal year, $5,000,000 shall be available for the purpose of making additional grants to the States to carry out the provisions of section 107(g).

(B) Of the amounts appropriated under paragraph (1) for a fiscal year and available after compliance with subparagraph (A)—

(i) 33⅓ percent shall be available for activities under sections 104, 105 and 106; and

(ii) 66⅔ percent of such amounts shall be made available in each such fiscal year for activities under sections 107 and 108.

(b) AVAILABILITY OF FUNDS WITHOUT FISCAL YEAR LIMITATION.—The Secretary shall ensure that funds appropriated pursuant to authorizations in this title shall remain available until expended for the purposes for which they were appropriated.

(42 U.S.C. 5106h) Enacted April 25, 1988, P.L. 100–294, sec. 101, 102 Stat. 117; amended Oct. 25, 1989, P.L. 101–126, sec. 3, 103 Stat. 764; amended May 28, 1992, P.L. 102–295, sec. 117(a), 106 Stat. 197.

TITLE II—COMMUNITY-BASED CHILD ABUSE AND NEGLECT PREVENTION GRANTS

SEC. 201. PURPOSES.

It is the purpose of this title, through the provision of community-based child abuse and neglect prevention grants, to assist States in supporting child abuse and neglect prevention activities.

(42 U.S.C. 5116) Enacted Oct. 12, 1984, P.L. 98–473, sec. 402, 98 Stat. 2197; transferred and amended Oct. 25, 1989, P.L. 101–126, secs. 2, 3(c)(1), and 4(a), 103 Stat. 764; amended May 28, 1992, P.L. 102–295, sec. 121(b) 106 Stat. 198.

SEC. 202. DEFINITIONS.

As used in this title—

(1) the term "Secretary" means the Secretary of Health and Human Services; and

(2) the term "State" means any of the several States, the District of Columbia, the Virgin Islands of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa,

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[1] Section 117(a) of P.L. 102–295 amended subsection (a) in its entirety. The effective date for the amendment was delayed by section 117(b) of the public law, which provides as follows:

"(b) DELAYED EFFECTIVE DATE.—Paragraph (2) of section 114(a), as amended by subsection (a), shall become effective on October 1 of the first fiscal year for which $30,000,000 or more would be available under subsection (a)(2)(B)(ii) of such section 114 (if such subsection were in effect), and until such fiscal year, the second and third sentences of section 114(a) (as in effect prior to the amendment made by such subsection (a)) shall continue in effect.".

the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, or Palau.

(42 U.S.C. 5116a) Enacted Oct. 12, 1984, P.L. 98–473, sec. 403, 98 Stat. 2197; transferred and amended Oct. 25, 1989, P.L. 101–126, secs. 2(a), 3(c)(1), and 4(b), 103 Stat. 764.

SEC. 203. GRANTS AUTHORIZED.

(a) IN GENERAL.—The Secretary is authorized, in accordance with the provisions of this title, to make grants to eligible States.

(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this title, there are authorized to be appropriated $45,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995.

(42 U.S.C. 5116b) Enacted Oct. 12, 1984, P.L. 98–473, sec. 404, 98 Stat. 2197; transferred and amended Oct. 25, 1989, P.L. 101–126, secs. 2(a), 3(c)(1), 4(c), and 5, 103 Stat. 764; amended May 28, 1992, P.L. 102–295, sec. 122, 106 Stat. 198.

SEC. 204. STATE ELIGIBILITY.

Any State is eligible for a grant under this title for any fiscal year if such State has established or maintained in the previous fiscal year a trust fund, including appropriations, which includes (in whole or in part) legislative provisions making funding available only for the broad range of child abuse and neglect prevention activities.

(42 U.S.C. 5116c) Enacted Oct. 12, 1984, P.L. 98–473, sec. 405, 98 Stat. 2198; transferred and amended Oct. 25, 1989, P.L. 101–126, secs. 2(a), 3(c)(1), and 4(d), 103 Stat. 764; amended May 28, 1992, P.L. 102–295, sec. 123, 106 Stat. 198.

SEC. 205. LIMITATIONS.

(a) AMOUNT OF GRANT.—

(1) ALLOTMENT FORMULA.—

(A) IN GENERAL.—Amounts appropriated to provide grants under this title shall be allotted among eligible States in each fiscal year so that—

(i) 50 percent of the total amount appropriated is allotted among each State based on the number of children under the age of 18 in each such State, except that each State shall receive not less than $30,000; and

(ii) the remaining 50 percent of the total amount appropriated is allotted in an amount equal to 25 percent of the total amount collected by each such State, in the fiscal year prior to the fiscal year for which the allotment is being determined, for the children's trust fund of the State for child abuse and neglect prevention activities.

(B) USE OF AMOUNTS.—Not less than 50 percent of the amount of a grant made to a State under this title in each fiscal year shall be utilized to support community-based prevention programs as authorized in section 204(a), except that this subparagraph shall not become applicable until amounts appropriated under section 203(b) exceed $10,000,000.

(2) DEFINITION.—For purposes of paragraph (1)(B), the term "children" means individuals who have not attained the age of majority, as defined by such State.

(b) APPLICATION.—

(1) REQUIREMENTS.—No grant may be made to any eligible State unless an application is made to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary deems essential to carry out the purposes and provisions of this title. Each application shall—

(A) specify that the trust fund advisory board, or in States without a trust fund mechanism, the State liaison agency to the National Center on Child Abuse and Neglect, established by section 101, will be responsible for administering and awarding of the Federal grants to eligible recipients carrying out activities described in section 204.

(B) demonstrate coordination with other child abuse and neglect prevention activities and agencies at the State and local levels;

(C) demonstrate the outcome of services and activities funded under this title;

(D) provide evidence that Federal assistance received under this title has been supplemented with non-Federal public and private assistance (including in-kind contributions) at the local level (Federal assistance expended in support of activities authorized under paragraphs (1), (2), and (3) of section 204 shall be supplemented by State assistance);

(E) demonstrate the extent to which funds received under this title are used to support community prevention activities in underserved areas, in which case the supplemental support required under subparagraph (D) shall be waived for the first 3 years in which assistance is provided to a grantee described in this subparagraph;

(F) provide assurances that any assistance received under this title shall not be used as a source for non-Federal funds for the matching requirements of any other provision of Federal law; and

(G) provide for keeping records and making such reasonable reports as the Secretary deems essential to carry out the purposes and provisions of this title.

(2) APPROVAL.—The Secretary shall approve any application that meets the requirements of this subsection, and the Secretary shall not disapprove any such application except after reasonable notice of the Secretary's intention to disapprove and opportunity for a hearing with respect to the disapproval.

(42 U.S.C. 5116d) Enacted Oct. 12, 1984, P.L. 98–473, sec. 406, 98 Stat. 2198; transferred and amended Oct. 25, 1989, P.L. 101–126, secs. 2(a), 3(c), and 4(e), 103 Stat. 764; amended May 28, 1992, P.L. 102–295, sec. 124, 106 Stat. 198.

SEC. 206. WITHHOLDING.

Whenever the Secretary, after reasonable notice to any State and opportunity for hearing within the State, finds that there has been a failure to comply with any provision of this title, the Secretary shall notify the State that further payments will not be made under this title until the Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied, no further payments shall be made under this title.

(42 U.S.C. 5116e) Enacted Oct. 12, 1984, P.L. 98–473, sec. 407, 98 Stat. 2199; transferred and amended Oct. 25, 1989, P.L. 101–126, secs. 2(a), 3(c)(1), and 4(f), 103 Stat. 764.

SEC. 207. AUDIT.

The Comptroller General of the United States, and any of his duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of any applicant and any other entity receiving assistance under this title that are pertinent to the sums received and disbursed under this title.

(42 U.S.C. 5116f) Enacted Oct. 12, 1984, P.L. 98–473, sec. 408, 98 Stat. 2199; transferred and amended Oct. 25, 1989, P.L. 101–126, secs. 2(a), 3(c)(1), and 4(g), 103 Stat. 764.

SEC. 208. REPORT.

The Secretary shall prepare and submit to the Congress at the end of each year a compilation and analysis of any reports submitted by eligible States under section 205(b)(1)(C).[1]

(42 U.S.C. 5116g) Enacted Oct. 12, 1984, P.L. 98–473, sec. 409, 98 Stat. 2199; transferred and amended Oct. 25, 1989, P.L. 101–126, secs. 2(a), 3(c)(3), and 4(h), 103 Stat. 764.

TITLE III—CERTAIN PREVENTIVE SERVICES REGARDING CHILDREN OF HOMELESS FAMILIES OR FAMILIES AT RISK OF HOMELESSNESS

SEC. 301. DEMONSTRATION GRANTS FOR PREVENTION OF INAPPROPRIATE SEPARATION FROM FAMILY AND FOR PREVENTION OF CHILD ABUSE AND NEGLECT.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary may make grants to entities described in subsection (b)(1) for the purpose of assisting such entities in demonstrating, with respect to children whose families are homeless or at risk of becoming homeless, the effectiveness of activities undertaken to prevent—

(1) the inappropriate separation of such children from their families on the basis of homelessness or other problems regarding the availability and conditions of housing for such families; and

(2) the abuse and neglect of such children.

(b) MINIMUM QUALIFICATIONS OF GRANTEES.—

(1) IN GENERAL.—The entities referred to in subsection (a) are State and local agencies that provide services in geographic areas described in paragraph (2), and that have authority—

(A) for removing children, temporarily or permanently, from the custody of the parents (or other legal guardians) of such children and placing such children in foster care or other out-of-home care; or

(B) in the case of youths not less than 16 years of age for whom such a placement has been made, for assisting such youths in preparing to be discharged from such care into circumstances of providing for their own support.

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[1] Former subparagraph (C) of section 205(b)(1) was redesignated as subparagraph (G) by section 124(2)(A) of P.L. 102–295. The Public Law did not conform the reference in section 208 to the subparagraph.

(2) ELIGIBLE GEOGRAPHIC AREAS.—The geographic areas referred to in paragraph (1) are geographic areas in which homelessness and other housing problems are—

(A) threatening the well-being of children; and

(B)(i) contributing to the placement of children in out-of-home care;

(ii) preventing the reunification of children with their families; or

(iii) in the case of youths not less than 16 years of age who have been placed in out-of-home care, preventing such youths from being discharged from such care into circumstances of providing their own support without adequate living arrangements.

(3) COOPERATION WITH APPROPRIATE PUBLIC AND PRIVATE ENTITIES.—The Secretary shall not make a grant under subsection (a) unless the agency involved has entered into agreements with appropriate entities in the geographic area involved (including child welfare agencies, public housing agencies, and appropriate public and nonprofit private entities that provide services to homeless families) regarding the joint planning, coordination and delivery of services under the grant.

(c) REQUIREMENT OF MATCHING FUNDS.—

(1) IN GENERAL.—The Secretary shall not make a grant under subsection (a) unless the agency involved agrees that, with respect to the costs to be incurred by such agency in carrying out the purpose described in such subsection, the agency will make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount equal to not less than $1 for each $4 of Federal funds provided in such grant.

(2) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—Non-Federal contributions required under paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, shall not be included in determining the amount of such non-Federal contributions.

(42 U.S.C. 5118) Enacted November 29, 1990, P.L. 101–645, sec. 661(b), 104 Stat. 4755–56.

SEC. 302. PROVISIONS WITH RESPECT TO CARRYING OUT PURPOSE OF DEMONSTRATION GRANTS.

(a) JOINT TRAINING OF APPROPRIATE SERVICE PERSONNEL.—

(1) IN GENERAL.—The Secretary shall not make a grant under section 301(a) unless the agency involved agrees to establish, with respect to the subjects described in paragraph (2), a program for joint training concerning such subjects, for appropriate personnel of child welfare agencies, public housing agencies, and appropriate public and private entities that provide services to homeless families.

(2) Specification of training subjects.—The subjects referred to in paragraph (1) are—

(A) the relationship between homelessness, and other housing problems, and the initial and prolonged placement of children in out-of-home care;

(B) the housing-related needs of families with children who are at risk of placement in out-of-home care; and

(C) resources (including housing-related assistance) that are available to prevent the initial or prolonged placement in out-of-home care of children whose families are homeless or who have other housing problems.

(b) Additional Authorized Activities.—In addition to activities authorized in subsection (a), a grantee under section 301(a) may expend grant funds for—

(1) the hiring of additional personnel to provide assistance in obtaining appropriate housing—

(A) to families whose children are at imminent risk of placement in out-of-home care or who are awaiting the return of children placed in such care; and

(B) to youth who are preparing to be discharged from such care into circumstances of providing for their own support;

(2) training and technical assistance for the personnel of shelters and other programs for homeless families (including domestic violence shelters) to assist such programs—

(A) in the prevention and identification of child abuse and neglect among the families the programs served; and

(B) in obtaining appropriate resources for families who need social services, including supportive services and respite care;

(3) the development and dissemination of informational materials to advise homeless families with children and others who are seeking housing of resources and programs available to assist them; and

(4) other activities, if authorized by the Secretary, that are necessary to address housing problems that result in the inappropriate initial or prolonged placement of children in out-of-home care.

(42 U.S.C. 5118a) Enacted November 29, 1990, P.L. 101–645, sec. 661(b), 104 Stat. 4757.

SEC. 303. ADDITIONAL REQUIRED AGREEMENTS.

(a) Reports to Secretary.—The Secretary shall not make a grant under section 301(a) unless the agency involved agrees that such agency will—

(1) annually prepare and submit to the Secretary a report describing the specific activities carried out by the agency under the grant; and

(2) include in the report submitted under paragraph (1), the results of an evaluation of the extent to which such activities have been effective in carrying out the purpose described in such section, including the effect of such activities regarding—

(A) the incidence of placements of children in out-of-home care;

(B) the reunification of children with their families; and

(C) in the case of youths not less than 16 years of age who have been placed in out-of-home care, the discharge of such youths from such care into circumstances of providing for their own support with adequate living arrangements.

(b) EVALUATION BY THE SECRETARY.—The Secretary shall conduct evaluations to determine the effectiveness of demonstration programs supported under section 301(a) in—

(1) strengthening coordination between child welfare agencies, housing authorities, and programs for homeless families;

(2) preventing placements of children into out-of-home care due to homelessness or other housing problems;

(3) facilitating the reunification of children with their families; and

(4) in the case of youths not less than 16 years old who have been placed in out-of-home care, preventing such youth from being discharged from such care into circumstances of providing their own support without adequate living arrangements.

(c) REPORT TO CONGRESS.—

(1) PREPARATION OF LIST.—Not later than April 1, 1991, the Secretary, after consultation with the Secretary of Education, the Secretary of Housing and Urban Development and the Secretary of Labor, shall prepare and submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a list of Federal programs that provide services, or fund grants, contracts, or cooperative agreements for the provision of services, directed to the prevention of homelessness for families whose children are at risk of out of home placement and the incidence of child abuse that may be associated with homelessness, that shall include programs providing—

(A) rent, utility, and other subsidies;

(B) training; and

(C) for inter-agency coordination, at both the local and State and Federal level.

(2) CONTENTS OF LIST.—The list prepared under paragraph (1) shall include a description of—

(A) the appropriate citations relating to the authority for such programs;

(B) entities that are eligible to participate in each such program;

(C) authorization levels and the annual amounts appropriated for such programs for each fiscal year in which such programs were authorized;

(D) the agencies and divisions administering each such program;

(E) the expiration date of the authority of each such program; and

(F) to the extent available, the extent to which housing assistance under such programs can be accessed by child welfare and other appropriate agencies.

(3) REPORT.—Not later than March 1, 1993, the Secretary shall prepare and submit to the appropriate committees of Congress a report that contains a description of the activities carried out under this title, and an assessment of the effectiveness of such programs in preventing initial and prolonged separation of children from their families due to homelessness and other housing problems. At a minimum the report shall contain—

(A) information describing the localities in which activities are conducted;

(B) information describing the specific activities undertaken with grant funds and, where relevant, the numbers of families and children assisted by such activities;

(C) information concerning the nature of the joint training conducted with grant funds;

(D) information concerning the manner in which other agencies such as child welfare, public housing authorities, and appropriate public and nonprofit private entities are consulting and coordinating with existing programs that are designed to prevent homelessness and to serve homeless families and youth; and

(E) information concerning the impact of programs supported with grant funds under this title on—

(i) the incidence of the placement of children into out-of-home care;

(ii) the reunification of children with their families; and

(iii) in the case of youth not less than 16 years of age who have been placed in out-of-home care, the discharge of such youths from such care into circumstances of providing for their own support with adequate living arrangements.

(d) RESTRICTION ON USE OF GRANT.—The Secretary may not make a grant under section 301(a) unless the agency involved agrees that the agency will not expend the grant to purchase or improve real property.

(42 U.S.C. 5118b) Enacted November 29, 1990, P.L. 101–645, sec. 661(b), 104 Stat. 4757–59.

SEC. 304. DESCRIPTION OF INTENDED USES OF GRANT.

The Secretary shall not make a grant under section 301(a) unless—

(1) the agency involved submits to the Secretary a description of the purposes for which the agency intends to expend the grant;

(2) with respect to the entities with which the agency has made agreements pursuant to section 301(b)(1), such entities have assisted the agency in preparing the description required in paragraph (1); and

(3) the description includes a statement of the methods that the agency will utilize in conducting the evaluations required in section 303(a)(2).

(42 U.S.C. 5118c) Enacted November 29, 1990, P.L. 101–645, sec. 661(b), 104 Stat. 4759.

SEC. 305. REQUIREMENT OF SUBMISSION OF APPLICATION.

The Secretary shall not make a grant under section 301(a) unless an application for the grant is submitted to the Secretary, the application contains the description of intended uses required in section 304, and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this title.

(42 U.S.C. 5118d) Enacted November 29, 1990, sec. 661(b), P.L. 101–645, 104 Stat. 4759–60.

SEC. 306. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—For the purpose of carrying out this title, there are authorized to be appropriated $12,500,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995.

(b) AVAILABILITY OF APPROPRIATIONS.—Amounts appropriated under subsection (a) shall remain available until expended.

(42 U.S.C. 5118e) Enacted November 29, 1990, P.L. 101–645, sec. 661(b), 104 Stat. 4760; amended May 28, 1992, P.L. 102–295, sec. 131, 106 Stat. 199.

CHILD ABUSE PREVENTION AND TREATMENT AND ADOPTION REFORM ACT OF 1978

Child Abuse Prevention and Treatment and Adoption Reform Act of 1978

AN ACT To promote the healthy development of children who would benefit from adoption by facilitating their placement in adoptive homes, to extend and improve the provisions of the Child Abuse Prevention and Treatment Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Child Abuse Prevention and Treatment and Adoption Reform Act of 1978".

TITLE I—AMENDMENTS TO CHILD ABUSE PREVENTION AND TREATMENT ACT

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TITLE II—ADOPTION OPPORTUNITIES

SEC. 201. CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the number of children in substitute care increased by nearly 50 percent between 1985 and 1990, as our Nation's foster care population included more than 400,000 children at the end of June, 1990;

(2) increasingly children entering foster care have complex problems which require intensive services;

(3) an increasing number of infants are born to mothers who did not receive prenatal care, are born addicted to alcohol and other drugs, and exposed to infection with the etiologic agent for the human immunodeficiency virus, are medically fragile, and technology dependent;

(4) the welfare of thousands of children in institutions and foster homes and disabled infants with life-threatening conditions may be in serious jeopardy and some such children are in need of placement in permanent, adoptive homes;

(5) many thousands of children remain in institutions or foster homes solely because of local and other barriers to their placement in permanent, adoptive homes;

(6) the majority of such children are of school age, members of sibling groups or disabled;

(7) currently one-half of children free for adoption and awaiting placement are minorities;

(8) adoption may be the best alternative for assuring the healthy development of such children;

(9) there are qualified persons seeking to adopt such children who are unable to do so because of barriers to their placement; and

(10) in order both to enhance the stability and love of the child's home environment and to avoid wasteful expenditures of public funds, such children should not have medically indicated treatment withheld from them nor be maintained in foster care or institutions when adoption is appropriate and families can be found for such children.

(b) PURPOSE.—It is the purpose of this title to facilitate the elimination of barriers to adoption and to provide permanent and loving home environments for children who would benefit from adoption, particularly children with special needs, including disabled infants with life-threatening conditions, by—

(1) promoting model adoption legislation and procedures in the States and territories of the United States in order to eliminate jurisdictional and legal obstacles to adoption; and

(2) providing a mechanism for the Department of Health and Human Services to—

(A) promote quality standards for adoption services, pre-placement, post-placement, and post-legal adoption counseling, and standards to protect the rights of children in need of adoption;

(B) maintain a national adoption information exchange system to bring together children who would benefit from adoption and qualified prospective adoptive parents who are seeking such children, and conduct national recruitment efforts in order to reach prospective parents for children awaiting adoption; and

(C) demonstrate expeditious ways to free children for adoption for whom it has been determined that adoption is the appropriate plan.

(42 U.S.C. 5111) Enacted April 24, 1978, P.L. 95–266, 92 Stat. 208; amended October 9, 1984, P.L. 98–457, sec. 201, 98 Stat. 1755–1756; amended May 28, 1992, P.L. 102–295, sec. 401, 106 Stat. 211.

INFORMATION AND SERVICES

SEC. 203.[1] (a) The Secretary shall establish in the Department of Health and Human Services an appropriate administrative arrangement to provide a centralized focus for planning and coordinating of all departmental activities affecting adoption and foster care and for carrying out the provisions of this title. The Secretary shall make available such consultant services, on-site technical assistance and personnel, together with appropriate administrative expenses, including salaries and travel costs, as are necessary for carrying out such purposes, including services to facilitate the adoption of children with special needs and particularly of disabled infants with life-threatening conditions and services to couples considering adoption of children with special needs. The Secretary shall, not later than 12 months after the date of enactment of this sentence, prepare and submit to the committees of Congress having jurisdiction over such services reports, as appropriate, containing appropriate data concerning the manner in which activities were carried out under this title, and such reports shall be made available to the public.

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[1] Section 202 was repealed by section 402 of Public Law 102–295.

(b) In connection with carrying out the provisions of this title, the Secretary shall—

(1) conduct (directly or by grant to or contract with public or private nonprofit agencies or organizations) an education and training program on adoption, and prepare, publish, and disseminate (directly or by grant to or contract with public or private nonprofit agencies and organizations) to all interested parties, public and private agencies and organizations (including, but not limited to, hospitals, health care and family planning clinics, and social services agencies), and governmental bodies, information and education and training materials regarding adoption and adoption assistance programs;

(2) conduct, directly or by grant or contract with public or private nonprofit organizations, ongoing, extensive recruitment efforts on a national level, develop national public awareness efforts to unite children in need of adoption with appropriate adoptive parents, and establish a coordinated referral system of recruited families with appropriate State or regional adoption resources to ensure that families are served in a timely fashion;

(3) notwithstanding any other provision of law, provide (directly or by grant to or contract with public or private nonprofit agencies or organizations) for (A) the operation of a national adoption information exchange system (including only such information as is necessary to facilitate the adoptive placement of children, utilizing computers and data processing methods to assist in the location of children who would benefit by adoption and in the placement in adoptive homes of children awaiting adoption); and (B) the coordination of such system with similar State and regional systems;

(4) provide (directly or by grant to or contract with public or private nonprofit agencies or organizations, including adoptive family groups and minority groups) for the provision of technical assistance in the planning, improving, developing, and carrying out of programs and activities relating to adoption, and to promote professional leadership training of minorities in the adoption field;

(5) encourage involvement of corporations and small businesses in supporting adoption as a positive family-strengthening option, including the establishment of adoption benefit programs for employees who adopt children;

(6) continue to study the nature, scope, and effects of the placement of children in adoptive homes (not including the homes of stepparents or relatives of the child in question) by persons or agencies which are not licensed by or subject to regulation by any governmental entity;

(7) consult with other appropriate Federal departments and agencies in order to promote maximum coordination of the services and benefits provided under programs carried out by such departments and agencies with those carried out by the Secretary, and provide for the coordination of such aspects of

all programs within the Department of Health and Human Services relating to adoption;

(8) maintain (directly or by grant to or contract with public or private nonprofit agencies or organizations) a National Resource Center for Special Needs Adoption to—

(A) promote professional leadership development of minorities in the adoption field;

(B) provide training and technical assistance to service providers and State agencies to improve professional competency in the field of adoption and the adoption of children with special needs; and

(C) facilitate the development of interdisciplinary approaches to meet the needs of children who are waiting for adoption and the needs of adoptive families; and

(9) provide (directly or by grant to or contract with States, local government entities, public or private nonprofit licensed child welfare or adoption agencies or adoptive family groups and community-based organizations with experience in working with minority populations) for the provision of programs aimed at increasing the number of minority children (who are in foster care and have the goal of adoption) placed in adoptive families, with a special emphasis on recruitment of minority families—

(A) which may include such activities as—

(i) outreach, public education, or media campaigns to inform the public of the needs and numbers of such children;

(ii) recruitment of prospective adoptive families for such children;

(iii) expediting, where appropriate, the legal availability of such children;

(iv) expediting, where appropriate, the agency assessment of prospective adoptive families identified for such children;

(v) formation of prospective adoptive family support groups;

(vi) training of personnel of—

(I) public agencies;

(II) private nonprofit child welfare and adoption agencies that are licensed by the State; and

(III) adoptive parents organizations and community-based organizations with experience in working with minority populations;

(vii) use of volunteers and adoptive parent groups; and

(viii) any other activities determined by the Secretary to further the purposes of this Act; and

(B) shall be subject to the condition that such grants or contracts may be renewed if documentation is provided to the Secretary demonstrating that appropriate and sufficient placements of such children have occurred during the previous funding period.

(c)(1) The Secretary shall provide (directly or by grant to or contract with States, local government entities, public or private nonprofit licensed child welfare or adoption agencies or adoptive family groups) for the provision of post legal adoption services for families who have adopted special needs children.

(2) Services provided under grants made under this subsection shall supplement, not supplant, services from any other funds available for the same general purposes, including—

(A) individual counseling;

(B) group counseling;

(C) family counseling;

(D) case management;

(E) training public agency adoption personnel, personnel of private, nonprofit child welfare and adoption agencies licensed by the State to provide adoption services, mental health services professionals, and other support personnel to provide services under this subsection;

(F) assistance to adoptive parent organizations; and

(G) assistance to support groups for adoptive parents, adopted children, and siblings of adopted children.

(d)(1) The Secretary shall make grants for improving State efforts to increase the placement of foster care children legally free for adoption, according to a pre-established plan and goals for improvement. Grants funded by this section must include a strong evaluation component which outlines the innovations used to improve the placement of special needs children who are legally free for adoption, and the successes and failures of the initiative. The evaluations will be submitted to the Secretary who will compile the results of projects funded by this section and submit a report to the appropriate committees of Congress. The emphasis of this program must focus on the improvement of the placement rate—not the aggregate number of special needs children placed in permanent homes. The Secretary, when reviewing grant applications[1] shall give priority to grantees who propose improvements designed to continue in the absence of Federal funds.

(2) Each State entering into an agreement under this subsection shall submit an application to the Secretary for each fiscal year in a form and manner determined to be appropriate by the Secretary. Each application shall include verification of the placements described in paragraph (1).

(3)(A) Payments under this subsection shall begin during fiscal year 1989. Payments under this section during any fiscal year shall not exceed $1,000,000. No payment may be made under this subsection unless an amount in excess of $5,000,000 is appropriated for such fiscal year under section 205(a).

(B) Any payment made to a State under this subsection which is not used by such State for the purpose provided in paragraph (1) during the fiscal year payment is made shall revert to the Secretary on October 1st of the next fiscal year and shall be used to carry out the purposes of this Act.

(42 U.S.C. 5113) Enacted April 24, 1978, P.L. 95–266, 92 Stat. 209–2110; amended October 9, 1984, P.L. 98–457, sec. 203, 98 Stat. 1756–1757; amended April 25, 1988, P.L. 100–294, sec. 202, 102 Stat. 122–124; amended May 28, 1992, P.L.102–295, sec. 403, 106 Stat. 213.

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[1] So in law. See section 202(c) of Public Law 100–294 (102 Stat. 123).

STUDY OF UNLICENSED ADOPTION PLACEMENTS

SEC. 204. The Secretary shall provide for a study (the results of which shall be reported to the appropriate committees of the Congress not later than eighteen months after the date of enactment of this Act) designed to determine the nature, scope, and effects of the interstate (and, to the extent feasible, intrastate) placement of children in adoptive homes (not including the homes of stepparents or relatives of the child in question) by persons or agencies which are not licensed by or subject to regulation by any governmental entity.

(42 U.S.C. 5114) Enacted April 24, 1978, P.L. 95–266, 92 Stat. 210.

AUTHORIZATION OF APPROPRIATIONS

SEC. 205.(a) There are authorized to be appropriated, $10,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995, to carry out programs and activities under this Act except for programs and activities authorized under sections 203(b)(9) and 203(c)(1).

(b) For any fiscal year in which appropriations under subsection (a) exceeds $5,000,000, there are authorized to be appropriated $10,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995, to carry out section 203(b)(9), and there are authorized to be appropriated $10,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995, to carry out section 203(c)(1).

(c) The Secretary shall ensure that funds appropriated pursuant to authorizations in this Act shall remain available until expended for the purposes for which they were appropriated.

(42 U.S.C. 5115) Enacted April 24, 1978, P.L. 95–266, 92 Stat. 211; amended October 9, 1984, P.L. 98–457, sec. 204, 98 Stat. 1757; amended April 25, 1988, P.L. 100–294, sec. 201, 102 Stat. 122; amended May 28, 1992, P.L. 102–295, sec. 404, 106 Stat. 214.

FAMILY VIOLENCE PREVENTION AND SERVICES ACT

TITLE III—FAMILY VIOLENCE PREVENTION AND SERVICES

SHORT TITLE

SEC. 301. This title may be cited as the "Family Violence Prevention and Services Act".

(42 U.S.C. 10401 note)

DECLARATION OF PURPOSE

SEC. 302. It is the purpose of this title to—

(1) demonstrate the effectiveness of assisting[1] States in efforts to increase public awareness about and prevent family violence and to provide immediate shelter and related assistance for victims of family violence and their dependents; and

(2) provide for technical assistance and training relating to family violence programs to States, local public agencies (including law enforcement agencies, courts, legal, social service, and health care professionals), nonprofit private organizations, and other persons seeking such assistance.

(42 U.S.C. 10401)

STATE DEMONSTRATION GRANTS AUTHORIZED

SEC. 303. (a)(1) In order to assist in supporting the establishment, maintenance, and expansion of programs and projects to prevent incidents of family violence and to provide immediate shelter and related assistance for victims of family violence and their dependents, the Secretary is authorized, in accordance with the provisions of this title, to make grants to States.

(2) No grant may be made under this subsection unless the chief executive officer of the State seeking such grant submits an application to the Secretary at such time and in such manner as the Secretary may reasonably require. Each such application shall—

(A) provide that funds provided under this subsection will be distributed in demonstration grants[2] to local public agencies and nonprofit private organizations (including religious and charitable organizations, and voluntary associations) for programs and projects within such State to prevent incidents of family violence and to provide immediate shelter and related assistance for victims of family violence and their dependents in order to prevent future violent incidents;

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[1] The amendment described in section 302(1)(A) of P.L. 102–295 cannot be executed. The amendatory instructions provide that paragraph (1) is amended by striking out "demonstration the effectiveness of assisting" and inserting in lieu thereof "assist". The term "demonstration" does not appear in paragraph (1).

[2] The amendment described in section 303(2)(B) of P.L. 102–295 cannot be executed. The amendatory instructions provide that subparagraph (A) of paragraph (2) is amended by striking out "demonstration grant" and inserting in lieu thereof "grant". The term "demonstration grant" does not appear in subparagraph (A).

(B) provide, with respect to funds provided to a State under this subsection for any fiscal year, that—

(i) not more than 5 percent of such funds will be used for State administrative costs; and

(ii)[1] in the distribution of funds by the State under this subsection, the State will give special emphasis to the support of community-based projects of demonstrated effectiveness carried out by nonprofit private organizations, the primary purpose of which is to operate shelters for victims of family violence and their dependents, and those which provide counseling, advocacy, and self-help services to victims and their children.

(C) set forth procedures designed to involve State domestic violence coalitions knowledgeable individuals[2] and interested organizations and assure an equitable distribution of grants and grant funds within the State and between urban and rural areas within such State;

(D) specify the State agency to be designated as responsible for the administration of programs and activities relating to family violence which are carried out by the State under this title and for coordination of related programs within the State;

(E) provide documentation that procedures have been developed, and implemented including copies of the policies and procedure, to assure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services by any program assisted under this title and provide assurances that the address or location of any shelter-facility assisted under this title will, except with written authorization of the person or persons responsible for the operation of such shelter, not be made public;

(F) provide documentation to the Secretary that the State has a law or procedure that has been implemented for the eviction of an abusing spouse from a share household;[3]

(G) meet such requirements as the Secretary reasonably determines are necessary to carry out the purposes and provisions of this title.

(3) The Secretary shall approve any application that meets the requirements of this subsection, and the Secretary shall not disapprove any such application except after reasonable notice of the Secretary's intention to disapprove and after a 6-month period providing an opportunity for correction of any deficiencies. The Secretary shall provide such notice within 45 days of the date of the application if any of the provisions of paragraph (2) have not been satisfied in such application. If the State has not corrected the defi-

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[1] Section 303(2)(C) of P.L. 102–295 provides that section 303(a)(2) is amended by striking out "particularly those projects" in subparagraph (B)(ii) and all that follows through the end thereof and inserting certain language. The amendment has been executed on the assumption that "thereof" refers to subparagraph (B)(ii) only, rather than paragraph (2). The latter construction would mean that subparagraphs (C) through (G) are struck, which is inconsistent with the amendments described in sections 304 through 306 of the Public Law.

[2] The language "State domestic violence coalitions knowledgeable individuals" appears in the law. See section 304 of P.L. 102–295.

[3] So in law. See section 306 of P.L. 102–295. The subparagraph probably should end with "and".

ciencies in such application within the 6-month period following the receipt of the Secretary's notice of intention to disapprove, the Secretary shall withhold payment of any grant funds to such State until the date that is 30 days prior to the end of the fiscal year for which such grant funds are appropriated or until such time as the State provides documentation that the deficiencies have been corrected, whichever occurs first. State Domestic Violence Coalitions shall be permitted to participate in determining whether a grantee is in compliance with paragraph (2), except that no funds made available to State Domestic Violence Coalitions under section 311 shall be used to challenge a determination as to whether a grantee is in compliance with, or to seek the enforcement of, the eligibility requirements of such paragraph.

(b)(1) The Secretary, from amounts appropriated to carry out this section, shall make available not less than 10 percent of such amounts to make grants to Indian tribes, tribal organizations and nonprofit private organizations approved by an Indian Tribe for the operation of a family violence shelter on a Reservation for projects designed to prevent family violence and to provide immediate shelter and related assistance for victims of family violence and their dependents.

(2) No grant may be made under this subsection unless an application is made to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary deems essential to carry out the purposes and provisions of this title. Such application shall comply, as applicable, with the provisions of clauses (C) (with respect only to involving knowledgeable individuals and organizations), (D), (E) and (F) of subsection (a)(2). No entity eligible to submit an application under paragraph (1) shall be prohibited from making an application during any fiscal year for which funds are available because such entity has not previously applied or received funding under this section.

(3) In the case of a project for which the initial application for a demonstration grant under this subsection is made on or after the date of the enactment of the Child Abuse Programs, Adoption Opportunities, and Family Violence Prevention Amendments Act of 1992, the terms "Indian tribe" and "tribal organization", for purposes of this subsection, have the meaning given such terms in section 4 of the Indian Self-Determination and Education Assistance Act.

(c) No funds provided through demonstration grants made under this section may be used as direct payment to any victim of family violence or to any dependent of such victim.

(d) No income eligibility standard may be imposed upon individuals with respect to eligibility for assistance or services supported with funds appropriated to carry out this title.

(e) No grant may be made under this section to any entity other than a State or an Indian Tribe unless the entity provides for the following local share as a proportion of the total amount of funds provided under this title to the project involved: 20 percent in the first year such project receives a grant under this title, 35 percent in the second such year, and 50 percent in the third such year and in any such year thereafter. Except in the case of a public entity, not less than 25 percent of the local share of such agency or organization shall be raised from private sources. The local share required under this subsection may be in cash or in-kind. The local share may not include any Federal funds provided under any authority other than this title.

(f) The Secretary shall assure that not less than 70 percent of the funds distributed under subsection (a) or (b) shall be distributed to entities for the purpose of providing immediate shelter and related assistance to victims of family violence and their dependents as defined in section 309(4). Not less than 25 percent of the funds distributed under subsection (a) or (b) shall be distributed for the purpose of providing related assistance as defined under section 309(5)(A).

(42 U.S.C. 10402)

ALLOTMENT OF FUNDS

SEC. 304. (a) From the sums appropriated under section 310 for grants to States for any fiscal year, each State shall be allotted for payment in a grant authorized under section 303(a) an amount which bears the same ratio to such sums as the population of such State bears to the population of all States, except that—

(1) each State shall be allotted not less than 1 percent of the amounts available for grants under section 303(a) for the fiscal year for which the allotment is made, or $200,000, whichever is the lessor amount; and

(2) Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands shall each be allotted not less than one-eighth of 1 percent of the amounts available for grants under section 303(a) for the fiscal year for which the allotment is made.

For the purpose of the exception contained in clause (1) of the preceding sentence only, the term "State" does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(b) For the purpose of this section, the population of each State, and the total population of all the States, shall be determined by the Secretary on the basis of the most recent census data available to the Secretary, and the Secretary shall use for such purpose, if available, the annual interim current census data produced by the Secretary of Commerce pursuant to section 181 of title 13, United States Code.

(c) If the sums appropriated under section 310 for any fiscal year for grants to States authorized under section 303(a) are not sufficient to pay in full the total amounts which all States are entitled to receive under such section for such fiscal year, then the maximum amounts which all States are entitled to receive under such section for such fiscal year shall be ratably reduced. In the event that additional funds become available for making such grants for any fiscal year during which the preceding sentence is applicable, such reduced amounts shall be increased on the same basis as they were reduced.

(d)(1) If, at the end of the sixth month of any fiscal year for which sums are appropriated under section 310, the amount allotted to a State has not been made available to such State in grants under section 303(a) because of the failure of such State to meet the requirements for a grant, then the Secretary shall reallot such amount to States which meet such requirements.

(2) Funds made available by the Secretary through reallotment under paragraph (1) shall remain available for expenditure until the end of the fiscal year following the fiscal year in which such funds become available for reallotment.

(42 U.S.C. 10403)

SECRETARIAL RESPONSIBILITIES

SEC. 305. (a) The Secretary shall appoint an employee of the Department of Health and Human Services to carry out the provisions of this title. The individual appointed under this subsection shall, prior to such appointment, have had expertise in the field of family violence prevention and services.

(b) The Secretary shall—

(1) coordinate all programs within the Department of Health and Human Services, and seek to coordinate all other Federal programs, which involve the prevention of incidents of family violence and the provision of assistance for victims and potential victims of family violence and their dependents, and ensure that such activities as they relate to elderly persons are coordinated with the Administration on Aging and the National Institute on Aging within the Department of Health and Human Services;

(2)(A) provide for research, and into[1] the most effective prevention, identification, and treatment thereof (such as research into (i) the effectiveness of reducing repeated incidents of family violence through a variety of sentencing alternatives, such as incarceration, fines, and counseling programs, individually or in combination, and through the use of civil protection orders removing the abuser from the family household, (ii) the necessity and impact of a mandatory reporting requirement relating to incidents of family violence, particularly abuse of elderly persons), (iii) the effectiveness of providing safety and support to maternal and child victims of family violence as a way to eliminate the abuse experienced by children in such situations, (iv) identification of intervention approaches to child abuse prevention services which appear to be successful in preventing child abuse where both mother and child are abused, (v) effective and appropriate treatment services for children where both mother and child are abused, and (vi) the individual and situational factors leading to the end of violent and abusive behavior by persons who commit acts of family violence, including such factors as history of previous violence and the legal and service interventions received, and (B) make a complete study and investigation (in consultation with the National Institute on Aging) of the national incidence of abuse, neglect, and exploitation of elderly persons, including a determination of the extent to which incidents of such abuse, neglect, and exploitation are increasing in number or severity; and

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[1] So in law. See section 313(1) of P.L. 102–295. Probably should read "provide for research into".

(3) provide for the training of personnel and provide technical assistance in the conduct of programs for the prevention and treatment of family violence.

(42 U.S.C. 10404)

EVALUATION

SEC. 306. Not later than two years after the date on which funds are obligated under section 303(a) for the first time after the date of the enactment of this title, and every two years thereafter, the Secretary shall review, evaluate, and report to the appropriate Committees of the Congress, as to the effectiveness of the programs administered and operated pursuant to this title, particularly in relation to repeated incidents of family violence. Such report shall also include a summary of the documentation provided to the Secretary under section 303(a)(2)(B) through 303(a)(2)(F).

(42 U.S.C. 10405)

DISCRIMINATION PROHIBITED

SEC. 307. (a)(1) For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975, on the basis of handicap under section 504 of the Rehabilitation Act of 1973, on the basis of sex under title IX of the Education Amendments of 1972, or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964, programs and activities funded in whole or in part with funds made available under this part are considered to be programs and activities receiving Federal financial assistance.

(2) No person shall on the ground of sex or religion be excluded from participation in, be denied the benefits of, or be subject to discrimination under, any program or activity funded in whole or in part with funds made available under this title. Nothing in this title shall require any such program or activity to include any individual in any program or activity without taking into consideration that individual's sex in those certain instances where sex is a bona fide occupational qualification or programmatic factor reasonably necessary to the normal operation of that particular program or activity. The Secretary shall enforce the provisions of the preceding sentence in accordance with section 602 of the Civil Rights Act of 1964. Section 603 of such Act shall apply with respect to any action taken by the Secretary to enforce such sentence. This paragraph shall not be construed as affecting any other legal remedy.

(b) Whenever the Secretary finds that a State or other entity that has received financial assistance under this title has failed to comply with a provision of law referred to in subsection (a)(1), with subsection (a)(2), or with an applicable regulation (including one prescribed to carry out subsection (a)(2)), the Secretary shall notify the chief executive officer of the State and shall request such officer to secure compliance. If, within a reasonable period of time, not to exceed sixty days, the chief executive officer fails or refuses to secure compliance, the Secretary may—

(1) refer the matter to the Attorney General of the United States with a recommendation that an appropriate civil action be instituted,

(2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, sections 504 and 505 of the Rehabilitation Act of 1973, or title IX of the Education Amendments of 1972, as may be applicable, or

(3) take such other action as may be provided by law.

(c) When a matter is referred to the Attorney General pursuant to subsection (b)(1), or whenever the Attorney General has reason to believe that a State or an entity is engaged in a pattern or practice in violation of a provision of law referred to in subsection (a)(1) or in violation of subsection (a)(2), the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

(42 U.S.C. 10406)

SEC. 308. INFORMATION AND TECHNICAL ASSISTANCE CENTERS.

(a) PURPOSE AND GRANTS.—

(1) PURPOSE.—It is the purpose of this section to provide resource information, training, and technical assistance to Federal, State, and Indian tribal agencies, as well as to local domestic violence programs and to other professionals who provide services to victims of domestic violence.

(2) GRANTS.—From the amounts appropriated under this title, the Secretary shall award grants to private nonprofit organizations for the establishment and maintenance of one national resource center (as provided for in subsection (b)) and not to exceed six special issue resource centers (as provided for in subsection (c)) focusing on one or more issues of concern to domestic violence victims.

(b) NATIONAL RESOURCE CENTER.—The national resource center established under subsection (a)(2) shall offer resource, policy and training assistance to Federal, State, and local government agencies, to domestic violence service providers, and to other professionals and interested parties on issues pertaining to domestic violence, and shall maintain a central resource library in order to collect, prepare, analyze, and disseminate information and statistics and analyses thereof relating to the incidence and prevention of family violence (particularly the prevention of repeated incidents of violence) and the provision of immediate shelter and related assistance.

(c) SPECIAL ISSUE RESOURCE CENTERS.—The special issue resource centers established under subsection (a)(2) shall provide information, training and technical assistance to State and local domestic violence service providers, and shall specialize in at least one of the following areas of domestic violence service, prevention, or law:

(1) Criminal justice response to domestic violence, including court-mandated abuser treatment.

(2) Improving the response of Child Protective Service agencies to battered mothers of abused children.

(3) Child custody issues in domestic violence cases.

(4) The use of the self-defense plea by domestic violence victims.

(5) Improving interdisciplinary health care responses and access to health care resources for victims of domestic violence.

(6) Improving access to and the quality of legal representation for victims of domestic violence in civil litigation.

(d) ELIGIBILITY.—To be eligible to receive a grant under this section an entity shall be a private nonprofit organization that—

(1) focuses primarily on domestic violence;

(2) provides documentation to the Secretary demonstrating experience working directly on issues of domestic violence, particularly in the specific subject area for which it is applying;

(3) include on its advisory boards representatives from domestic violence programs in the region who are geographically and culturally diverse; and

(4) demonstrate the strong support of domestic violence advocates from across the country and the region for their designation as the national or a special issue resource center.

(e) REPORTING.—Not later than 6 months after receiving a grant under this section, a grantee shall prepare and submit a report to the Secretary that evaluates the effectiveness of the use of amounts received under such grant by such grantee and containing such additional information as the Secretary may prescribe.

(f) DEFINITION.—For purposes of this section, the term "Indian tribal agency" means an Indian tribe or tribal organization, as defined in section 4 of the Indian Self-Determination and Education Assistance Act.

(g) REGULATIONS.—Not later than 90 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section. Not later than 120 days after such date of enactment, the Secretary shall publish final regulations.

(42 U.S.C. 10407)

DEFINITIONS

SEC. 309. As used in this title:

(1) The term "family violence" means any act or threatened act of violence, including any forceful detention of an individual, which—

(A) results or threatens to result in physical injury; and

(B) is committed by a person against another individual (including an elderly person) to whom such person is or was related by blood or marriage or otherwise legally related or with whom such person is or was lawfully residing.

(2) The terms "Indian tribe" and "tribal organization" have the same meanings given such terms in subsections (b) and (c), respectively, of section 4 of the Indian Self-Determination and Education Assistance Act.

(3) The terms "Secretary" means the Secretary of Health and Human Services.

(4) The terms "shelter" means the provision of temporary refuge and related assistance in compliance with applicable State law and regulation governing the provision, on a regular basis, of shelter, safe homes, meals, and related assistance to victims of family violence and their dependents.

(5) The term "related assistance" means the provision of direct assistance to victims of family violence and their dependents for the purpose of preventing further violence, helping such victims to gain access to civil and criminal courts and other community services, facilitating the efforts of such victims to make decisions concerning their lives in the interest of safety, and assisting such victims in healing from the effects of the violence. Related assistance shall include—

(A) prevention services such as outreach and prevention services for victims and their children, employment training, parenting and other educational services for victims and their children, preventive health services within domestic violence programs (including nutrition, disease prevention, exercise, and prevention of substance abuse), domestic violence prevention programs for school age children, family violence public awareness campaigns, and violence prevention counseling services to abusers;

(B) counseling with respect to family violence, counseling by peers individually or in groups, and referral to community social services;

(C) transportation, technical assistance with respect to obtaining financial assistance under Federal and State programs, and referrals for appropriate health-care services (including alcohol and drug abuse treatment), but shall not include reimbursement for any health-care services;

(D) legal advocacy to provide victims with information and assistance through the civil and criminal courts, and legal assistance; or

(E) children's counseling and support services, and child care services for children who are victims of family violence or the dependents of such victims.

(6) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and, except as otherwise provided, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(42 U.S.C. 10408)

SEC. 310. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out the provisions of sections 303 through 309 and section 313, $60,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995.

(b) SECTION 303 (a) AND (b).—Of the amounts appropriated under subsection (a) for each fiscal year, not less than 80 percent shall be used for making grants under subsection 303(a), and not less than 10 percent shall be used for the purpose of carrying out section 303(b).

(c) SECTION 308.—Of the amounts appropriated under subsection (a) for each fiscal year, 5 percent shall be used by the Secretary for making grants under section 308.

(42 U.S.C. 10409)

SEC. 311. GRANTS FOR STATE DOMESTIC VIOLENCE COALITIONS.

(a) IN GENERAL.—The Secretary shall award grants for the funding of State domestic violence coalitions. Such coalitions shall further the purposes of domestic violence intervention and prevention through activities, including—

(1) working with judicial and law enforcement agencies to encourage appropriate responses to domestic violence cases and examine issues including—

(A) the inappropriateness of mutual protection orders;

(B) the prohibition of mediation when domestic violence is involved;

(C) the use of mandatory arrests of accused offenders;

(D) the discouragement of dual arrests;

(E) the adoption of aggressive and vertical prosecution policies and procedures;

(F) the use of mandatory requirements for presentence investigations;

(G) the length of time taken to prosecute cases or reach plea agreements;

(H) the use of plea agreements;

(I) the consistency of sentencing, including comparisons of domestic violence crimes with other violent crimes;

(J) the restitution of victims;

(K) the use of training and technical assistance to law enforcement and court officials and other professionals;

(L) the reporting practices of, and significance to be accorded to, prior convictions (both felony and misdemeanor) and protection orders;

(M) the use of interstate extradition in cases of domestic violence crimes;

(N) the use of statewide and regional planning; and

(O) any other matters as the Secretary and the State domestic violence coalitions believe merit investigations;

(2) work with family law judges, Child Protective Services agencies, and children's advocates to develop appropriate responses to child custody and visitation issues in domestic violence cases as well as cases where domestic violence and child abuse are both present, including—

(A) the inappropriateness of mutual protection orders;

(B) the prohibition of mediation where domestic violence is involved;

(C) the inappropriate use of marital or conjoint counseling in domestic violence cases;

(D) the use of training and technical assistance for family law judges and court personnel;

(E) the presumption of custody to domestic violence victims;

(F) the use of comprehensive protection orders to grant fullest protections possible to victims of domestic violence, including temporary support and maintenance;

(G) the development by Child Protective Service of supportive responses that enable victims to protect their children;

(H) the implementation of supervised visitations that do not endanger victims and their children; and

(I) the possibility of permitting domestic violence victims to remove children from the State when the safety of the children or the victim is at risk;

(3) conduct public education campaigns regarding domestic violence through the use of public service announcements and informative materials that are designed for print media, billboards, public transit advertising, electronic broadcast media, and other vehicles for information that shall inform the public concerning domestic violence; and

(4) participate in planning and monitoring of the distribution of grants and grant funds to their State under section 303(a).

(b) Eligibility.—To be eligible for a grant under this section, an entity shall be a statewide nonprofit State domestic violence coalition meeting the following conditions:

(1) The membership of the coalition includes representatives from a majority of the programs for victims of domestic violence in the State.

(2) The board membership of the coalition is representative of such programs.

(3) The purpose of the coalition is to provide services, community education, and technical assistance to such programs to establish and maintain shelter and related services for victims of domestic violence and their children.

(4) In the application submitted by the coalition for the grant, the coalition provides assurances satisfactory to the Secretary that the coalition—

(A) has actively sought and encouraged the participation of law enforcement agencies and other legal or judicial entities in the preparation of the application; and

(B) will actively seek and encourage the participation of such entities in the activities carried out with the grant.

(c) Allotment of Funds.—From amounts appropriated under this section for each fiscal year, the Secretary shall allot to each State, the District of Columbia, the Commonwealth of Puerto Rico, and the combined U.S. Territories an amount equal to $1/53$ of the amount appropriated for such fiscal year. For purposes of this section, the term "combined U.S. Territories" means Guam, American Samoa, the U.S. Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands and shall not receive less than 1.5 percent of the funds appropriated for each fiscal year.

(d) Prohibition on Lobbying.—No funds made available to entities under this section shall be used, directly or indirectly, to influence the issuance, amendment, or revocation of any executive order or similar promulgation by any Federal, State or local agency, or to undertake to influence the passage or defeat of any legislation by Congress, or by any State or local legislative body, or State proposals by initiative petition, except that the representatives of the entity may testify or make other appropriate communication—

(1) when formally requested to do so by a legislative body, a committee, or a member thereof; or

(2) in connection with legislation or appropriations directly affecting the activities of the entity.

(e) REPORTING.—Each State domestic violence coalition receiving amounts under this section shall submit a report to the Secretary describing the coordination, training and technical assistance and public education services performed with such amounts and evaluating the effectiveness of those services.

(f) DEFINITION.—For purposes of this section, a State domestic violence coalition may include representatives of Indian tribes and tribal organizations, as defined in section 4 of the Indian Self-Determination and Education Assistance Act.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to be used to award grants under this section $8,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995.

(h) REGULATIONS.—Not later than 90 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section. Not later than 120 days after such date of enactment, the Secretary shall publish final regulations implementing this section.

(42 U.S.C. 10410)

ADMINISTRATION AND STATUTORY CONSTRUCTION

SEC. 312. (a) In order to carry out the provisions of this title, the Secretary is authorized to—

(1) appoint and fix the compensation of such personnel as are necessary;

(2) procure, to the extent authorized by section 3109 of title 5, United States Code, such temporary and intermittent services of experts and consultants as are necessary;

(3) make grants to public and nonprofit private entities or enter into contracts with public or private entities; and

(4) prescribe such regulations as are reasonably necessary in order to carry out the purposes and provisions of this title.

Not later than 90 days after the date of enactment of this sentence, the Secretary shall publish proposed regulations implementing sections 303, 308, and 314. Not later than 120 days after such date of enactment, the Secretary shall publish final regulations implementing such sections.

(b) Nothing in this title shall be construed to supersede the application of State or local requirements for the reporting of incidents of suspected child abuse to the appropriate State authorities.

(42 U.S.C. 10412)

FAMILY MEMBER ABUSE INFORMATION AND DOCUMENTATION PROJECT

SEC. 313. The Secretary shall, directly or by grant or contract—

(1) develop data on the individual develop data[1] on the number of victims of family violence and their dependents who are homeless or institutionalized as a result of the violence and abuse they have experienced;

(2) provide for the objective documentation of data on the victims of family violence and their dependents based on injuries that are brought to the attention of domestic violence shelter, hospital, social service, or law enforcement personnel, whether or not formal civil or criminal action is taken; and

(3) provide assurances that procedures will be developed to guarantee the confidentiality of records pertaining to any individual for whom data are compiled through this subsection.

(42 U.S.C. 10413)

SEC. 314. GRANTS FOR PUBLIC INFORMATION CAMPAIGNS.

(a) IN GENERAL.—The Secretary may make grants to public or private nonprofit entities to provide public information campaigns regarding domestic violence through the use of public service announcements and informative materials that are designed for print media, billboards, public transit advertising, electronic broadcast media, and other vehicles for information that shall inform the public concerning domestic violence.

(b) APPLICATION.—No grant, contract, or cooperative agreement shall be made or entered into under this section unless an application that meets the requirements of subsection (c) has been approved by the Secretary.

(c) REQUIREMENTS.—An application submitted under subsection (b) shall—

(1) provide such agreements, assurances, and information, be in such form and be submitted in such manner as the Secretary shall prescribe through notice in the Federal Register, including a description of how the proposed public information campaign will target the population at risk, including pregnant women;

(2) include a complete description of the plan of the application for the development of a public information campaign;

(3) identify the specific audiences that will be educated, including communities and groups with the highest prevalence of domestic violence;

(4) identify the media to be used in the campaign and the geographic distribution of the campaign;

(5) describe plans to test market a development plan with a relevant population group and in a relevant geographic area and give assurance that effectiveness criteria will be implemented prior to the completion of the final plan that will include an evaluation component to measure the overall effectiveness of the campaign;

(6) describe the kind, amount, distribution, and timing of informational messages and such other information as the Secretary may require, with assurances that media organizations and other groups with which such messages are placed will not

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[1] The language "develop data on the individual develop data" appears in the law. See section 319 of P.L. 102–295.

lower the current frequency of public service announcements; and

(7) contain such other information as the Secretary may require.

(d) USE.—A grant, contract, or agreement made or entered into under this section shall be used for the development of a public information campaign that may include public service announcements, paid educational messages for print media, public transit advertising, electronic broadcast media, and any other mode of conveying information that the Secretary determines to be appropriate.

(e) CRITERIA.—The criteria for awarding grants shall ensure that an applicant—

(1) will conduct activities that educate communities and groups at greatest risk;

(2) has a record of high quality campaigns of a comparable type; and

(3) has a record of high quality campaigns that educate the population groups identified as most at risk.

(f) For purposes of this section, the term "public or private nonprofit entity" includes an "Indian tribe" or "tribal organization", as defined in section 4 of the Indian Self-Determination and Education Assistance Act.

(42 U.S.C. 10414)

SEC. 315. MODEL STATE LEADERSHIP GRANTS FOR DOMESTIC VIOLENCE INTERVENTION.

(a) IN GENERAL.—The Secretary, in cooperation with the Attorney General, shall award grants to not more than 10 States to assist such States in becoming model demonstration States and in meeting the costs of improving State leadership concerning activities that will—

(1) increase the number of prosecutions for domestic violence crimes;

(2) encourage the reporting of incidences of domestic violence; and

(3) facilitate "arrests and aggressive" prosecution policies.

(b) DESIGNATION AS MODEL STATE.—To be designated as a model State under subsection (a), a State shall have in effect—

(1) a law that requires mandatory arrest of a person that police have probable cause to believe has committed an act of domestic violence or probable cause to believe has violated an outstanding civil protection order;

(2) a law or policy that discourages "dual" arrests;

(3) statewide prosecution policies that—

(A) authorize and encourage prosecutors to pursue cases where a criminal case can be proved, including proceeding without the active involvement of the victim if necessary; and[1]

(B) implement model projects that include either—

(i) a "no-drop" prosecution policy; or

(ii) a vertical prosecution policy; and

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[1] So in law. See section 321 of P.L. 102–295. The word "and" probably should not appear.

(C) limit diversion to extraordinary cases, and then only after an admission before a judicial officer has been entered;

(4) statewide guidelines for judges that—

(A) reduce the automatic issuance of mutual restraining or protective orders in cases where only one spouse has sought a restraining or protective order;

(B) discourage custody or joint custody orders by spouse abusers; and

(C) encourage the understanding of domestic violence as a serious criminal offense and not a trivial dispute; and

(5) develop and disseminate methods to improve the criminal justice system's response to domestic violence to make existing remedies as easily available as possible to victims of domestic violence, including reducing delay, eliminating court fees, and providing easily understandable court forms.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—In addition to the funds authorized to be appropriated under section 310, there are authorized to be appropriated to make grants under this section $25,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995.

(2) LIMITATION.—A grant may not be made under this section in an amount less than $2,000,000.

(3) DELEGATION AND TRANSFER.—The Secretary shall delegate to the Attorney General the Secretary's responsibilities for carrying out this section and shall transfer to the Attorney General the funds appropriated under this section for the purpose of making grants under this section.

(42 U.S.C. 10415)

CHILD ABUSE PREVENTION, ADOPTION, AND FAMILY SERVICES ACT OF 1988

CHILD ABUSE PREVENTION, ADOPTION, AND FAMILY SERVICES ACT OF 1988[1]

SEC. 102. CHILD ABUSE AND DISABILITY.

(a) STUDY.—The Director of the National Center on Child Abuse and Neglect shall conduct a study of—

(1) the incidence of child abuse among children with handicaps, including children in out-of-home placements, and the relationship between child abuse and children's handicapping conditions; and

(2) the incidence of children who have developed handicapping conditions as a result of child abuse or neglect.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Director shall report to the appropriate committees of Congress with respect to the study conducted pursuant to subsection (a). The report shall include—

(1) the information and data gathered;

(2) an analysis of such information and data; and

(3) recommendations on how to prevent abuse of disabled children.

(42 U.S.C. 5105 note) Enacted April 25, 1988, P.L. 100–294, sec. 102, 102 Stat. 118.

SEC. 103. CHILD ABUSE AND ALCOHOLIC FAMILIES.

(a) STUDY.—The Director of the National Center on Child Abuse and Neglect shall conduct a study of the incidence of child abuse in alcoholic families and the relationship between child abuse and familial alcoholism.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Director shall report to the appropriate committees of Congress with respect to the study conducted pursuant to subsection (a). The report shall include—

(1) the information and data gathered;

(2) an analysis of such information and data; and

(3) recommendations on how to prevent child abuse in alcoholic families.

(42 U.S.C. 5105 note) Enacted April 25, 1988, P.L. 100–294, sec. 103, 102 Stat. 118.

SEC. 104. STUDY OF GUARDIAN-AD-LITEM.

(a) STUDY.—The Director of the National Center on Child Abuse and Neglect shall conduct a study of—

(1) how individual legal representation of children in cases of child abuse or neglect has been provided in each State; and

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[1] Section 101 of the Act amended the Child Abuse Prevention and Treatment Act in its entirety.

(2) the effectiveness of legal representation of children in cases of abuse or neglect through the use of guardian-ad-litem and court appointed special advocates.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Director shall report to the appropriate committees of Congress with respect to the study conducted pursuant to subsection (a). The report shall include—

(1) the information and data gathered;

(2) an analysis of such information and data; and

(3) recommendations on how to improve legal representation of children in cases of abuse or neglect.

(42 U.S.C. 5105 note) Enacted April 25, 1988, P.L. 100-294, sec. 104, 102 Stat. 118.

SEC. 105. HIGH RISK STUDY.

(a) STUDY.—The Director of the National Center on Child Abuse and Neglect shall conduct a study—

(1) to identify groups which have been historically underserved or unserved by programs relating to child abuse and neglect; and

(2) to report the incidence of child abuse and neglect among children who are members of such groups.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Director shall report to the appropriate committees of Congress with respect to the study conducted pursuant to subsection (a). The report shall include—

(1) the information and data gathered;

(2) an analysis of such information and data; and

(3) recommendations on how to better meet the needs of underserved or unserved groups.

(42 U.S.C. 5105 note) Enacted April 25, 1988, P.L. 100-294, sec. 105, 102 Stat. 118-119.

SEC. 106. PRESIDENTIAL COMMISSION ON CHILD AND YOUTH DEATHS.

(a) FINDINGS.—The Congress finds that—

(1) even by conservative estimates, during 1985 and 1986, child abuse fatalities in this country increased by 23 percent;

(2) the average age of children who die from abuse and neglect is two years old;

(3) child abuse fatalities are not inherently predictable but many are preventable;

(4) many accidental childhood injuries are likewise preventable;

(5) accidental childhood injuries remain the biggest killer and disabler of children between the ages of 1 and 14;

(6) in the face of stagnating infant mortality indicators, the United States is now tied for last place among 20 industrialized nations with respect to infant mortality;

(7) the teen suicide rate is starting to climb again, with deaths totaling over 5,000 in 1986; and

(8) homicide is the second leading cause of death in youths aged fourteen to twenty-four years.

(b) ESTABLISHMENT OF COMMISSION.—There is established a National Commission on Child and Youth Deaths (hereafter in this section referred to as the "Commission"). The Commission shall be composed of fifteen members as follows:

(1) Two members of the Senate, one to be selected by the Majority Leader of the Senate, the other to be selected by the Minority Leader of the Senate.

(2) Two members of the House, one to be selected by the Speaker of the House of Representatives, the other to be selected by the Minority Leader of the House.

(3) Four representatives of State government shall be selected by the President:

(A) The chief executive officer of a State.

(B) A chief State official responsible for administering child health and mental health programs.

(C) A chief State official responsible for administering children's social services programs.

(D) A chief State official responsible for administering law enforcement programs.

(4) The Secretary of Health and Human Services.

(5) Six at large members, including representatives of community-based organizations with demonstrated expertise in the prevention and identification of child and youth deaths due to child abuse and neglect, infant mortality (including sudden infant death syndrome), suicide, homicide, and unintentional injuries, to be jointly selected by the Majority Leader of the Senate and Speaker of the House of Representatives.

(c) STUDY AND EVALUATION BY THE COMMISSION.—The Commission shall study and evaluate comprehensively Federal, State, and local public and private resources which affect child and youth deaths and shall—

(1) evaluate the adequacy and effectiveness of programs designed to prevent or identify child and youth deaths which are intentionally caused or which occur due to negligence, neglect, or a failure to exercise proper care, including child health and mental health services, child protective services, child welfare services, education, juvenile justice services, and law enforcement activities;

(2) evaluate the effectiveness of current Federal, State, and local policies and systems aimed at appropriately identifying and collecting accurate, uniform data on child and youth deaths in a coordinated fashion;

(3) evaluate the adequacy of current Federal, State, and local efforts to enable an appropriate distribution of properly trained child health, mental health, social services, protective services, education, juvenile justice, and law enforcement personnel to prevent and identify child and youth deaths; and

(4) identify current resource limitations on and intergovernmental and Federal interagency barriers to the care needed to prevent high child and youth death rates.

In order to conduct the study and evaluation required by this subsection, the Commission shall hold hearings in areas of the United States with high child and youth death rates.

(d) RECOMMENDATIONS AND REPORT OF THE COMMISSION.—(1) The Commission shall make recommendations with respect to—

(A) a national policy designed to reduce and prevent child and youth deaths, including recommendations for more accurate reporting systems and recommendations concerning appropriate roles for the Federal Government, States, and local governments and the private sector;

(B) specific changes needed in Federal laws and Federal programs to achieve an effective Federal role in preventing child and youth deaths, including the programs specified in subparagraph (A); and

(C) specific changes needed to improve national data collection with respect to child and youth deaths.

In making its recommendations, the Commission shall review recommendations made in recent regional and national conferences and reports on child and youth deaths.

(2) Within 12 months after the appointment of the Commission, the Commission shall prepare and transmit to the President and the appropriate committees of the Congress a report describing the activities of the Commission and containing information gathered and evaluations required by subsection (c) and recommendations required by paragraph (1) of this subsection.

(e) ADMINISTRATION PROVISIONS.—(1) A vacancy in the Commission shall be filled in the same manner as the original appointment was made. A vacancy in the Commission shall not affect its powers.

(2) Members shall be appointed for the life of the Commission.

(3) The members of the Commission shall elect a Chairman from among the members of the Commission.

(4) Eleven members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(5) The Commission shall hold its first meeting on a date specified by the President which is not later than 90 days after October 1, 1988. Thereafter, the Commission shall meet at the call of the Chairman or a majority of its members, but shall meet at least three times during the life of the Commission.

(f) COMPENSATION OF MEMBERS.—(1) Each member of the Commission who is not an officer or employee of the United States shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for grade GS–18 of the General Schedule under section 5332 of title 5, United States Code, for each day (including traveltime) during which such member is engaged in the actual performance of duties as a member of the Commission. Each member of the Commission who is an officer or employee of the United States shall receive no additional compensation.

(2) While away from their homes or regular place of business in the performance of duties for the Commission, all members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(g) EXECUTIVE DIRECTOR OF COMMISSION.—(1) The Commission shall appoint an Executive Director who shall be compensated at a rate not to exceed the rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) With the approval of the Commission, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission.

(3) The Executive Director and the additional personnel of the Commission referred to in paragraph (2) may be appointed without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(4) Subject to such rules as may be prescribed by the Commission, the Executive Director may procure temporary or intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed $200 per day.

(5) Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this section.

(6) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative and support services as the Commission may request.

(h) POWERS OF COMMISSION.—(1) For the purpose of carrying out this section, the Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The commission may administer oaths or affirmations to witnesses appearing before the Commission.

(2) Any member or employee of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this subsection.

(3) The Commission may secure directly from any Federal agency such information as may be necessary to enable the Commission to carry out this section. Upon request of the Chairman of the Commission, the head of such agency shall furnish such information to the Commission.

(i) AUTHORIZATION OF APPROPRIATIONS.—For fiscal years beginning after September 30, 1987, there are authorized to be appropriated such sums as may be necessary to carry out this section.

(j) TERMINATION.—The Commission shall terminate 90 days after the date on which the Commission transmits the report required under subsection (d)(2) to the President and the appropriate committees of Congress.

(42 U.S.C. 5101 note) Enacted April 25, 1988, P.L. 100–294, sec. 106, 102 Stat. 119–122.

NATIONAL COMMISSION TO PREVENT INFANT MORTALITY ACT OF 1986

NATIONAL COMMISSION TO PREVENT INFANTMORTALITY ACT OF 1986

TITLE II—NATIONAL COMMISSION TO PREVENT INFANT MORTALITY

SEC. 201. SHORT TITLE.

This title may be cited as the "National Commission to Prevent Infant Mortality Act of 1986".

(42 U.S.C. 285g note) Enacted November 14, 1986, P.L. 99–660, sec. 201, 100 Stat. 3752.

SEC. 202. DEFINITION.

For the purposes of this title, the term "infant mortality" refers to the number of infants born alive but who die before their first birthday.

(42 U.S.C. 285g note) Enacted November 14, 1986, P.L. 99–660, sec. 202, 100 Stat. 3752.

SEC. 203. ESTABLISHMENT OF A NATIONAL COMMISSION.

(a) Establishment.—There is established the National Commission to Prevent Infant Mortality (hereinafter referred to as the "Commission").

(b) Composition.—The Commission shall be composed of fifteen members, as follows:

(1) Two members of the Senate, one to be selected by the majority leader of the Senate, the other to be selected by the minority leader of the Senate.

(2) Two members of the House, one to be selected by the Speaker of the House, the other to be selected by the minority leader of the House.

(3) Three representatives of State government shall be jointly selected by the majority leader of the Senate and the Speaker of the House. One shall be a Governor; one shall be a chief State official responsible for administering the State medicaid program; and one shall be the chief State official responsible for administering the State maternal and child health programs.

(4) The Secretary of Health and Human Services shall be a member.

(5) The Comptroller General of the United States shall be a member.

(6) Six at large members, with demonstrated expertise in maternal and child health, including representatives of health care consumer and provider organizations, shall be jointly selected by the majority leader of the Senate and the Speaker of the House.

(c) Chairman and Vice Chairman.—The Commission shall select a Chairperson and Vice Chairperson from among its members.

(d) Quorum.—Eight members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(e) Meetings.—The Commission shall meet at the call of the Chairperson.

(f) Vacancies.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(42 U.S.C. 285g note) Enacted November 14, 1986, P.L. 99–660, sec. 203, 100 Stat. 3752–3753.

SEC. 204. DUTIES OF THE COMMISSION.

(a) Duties.—The Commission shall:

(1) Identify and examine comprehensively Federal, State, local, and private resources which impact infant mortality, including but not limited to—

(A) the effectiveness and adequacy of programs such as the Supplemental Feeding Program for Women, Infants, and Children; the Maternal and Child Health Block Grant; Community Health Centers; prepregnancy services and other programs that increase access to prenatal and postnatal education, care, and nutrition;

(B) the effectiveness of current Federal and State policies under the Medicaid Program to ensure adequate access to prenatal and post-natal care for low-income pregnant women, mothers, and infants up to age one;

(C) the role of income maintenance and other programs that impact infant mortality such as Aid to Families with Dependent Children and Federal housing subsidies;

(D) the adequacy of current Federal and State efforts to enable an appropriate distribution of properly trained health care professionals to provide comprehensive maternal and child health services;

(E) the adequacy of private health care financing systems and mechanisms to enable pregnant women and infants to receive comprehensive health care; and

(F) the adequacy of the national biostatistics registration system with respect to the collection and reporting of infant health statistics.

(2) Identify current financial, intergovernmental, and within the Federal Government, interagency barriers to the health care needed to prevent high infant mortality.

(3) Review recommendations made in recent regional and national reports that promote the health status of childbearing women and their infants and carry forward such recommendations as deemed appropriate.

(4) Hold hearings, in accordance with section 205(a), in areas of the United States with high infant mortality rates.

(b) Recommendations.—The Commission shall—

(1) recommend a national policy designed to reduce and prevent infant mortality, including recommendations concerning populations at risk of high infant death rates and rec-

ommendations concerning appropriate roles for the Federal Government, States, local governments, and private sector;

(2) recommend to the Congress and the President the specific changes needed within Federal laws and Federal programs to achieve an effective Federal role in preventing infant mortality, including the programs specified in subparagraphs (A) and (B) of subsection (a)(1);

(3) recommend to the Congress and the President the specific changes needed to improve the national vital statistics registration system with respect to infant death statistics; and

(4) present such recommendations to the President, the Committee on Energy and Commerce of the House of Representatives, and the Committees on Finance and Governmental Affairs of the Senate no later than one year after enactment of this Act.

(42 U.S.C. 285g note) Enacted November 14, 1986, P.L. 99–660, sec. 204, 100 Stat. 3753–3754.

SEC. 205. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission, or at its direction, any subcommittee or member thereof, may for the purpose of carrying out the provisions of this title, hold such hearings, sit and act at such times and places, take such testimony, receive such evidence and administer such oaths, as the Commission or such subcommittee or member may deem advisable. Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission, subcommittee, or member thereof.

(b) INFORMATION.—The Commission may secure directly from any Federal department or agency such information as may be necessary to enable the Commission to carry out this title. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) CONTRACTS.—To carry out this title, the Commission may enter into such contracts and other arrangements to such extent or in such amounts as are provided in appropriation Acts, and without regard to the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5). Contracts and other arrangements may be entered into under this subsection with or without consideration or bond.

(d) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The provisions of the Federal Advisory Committee Act shall not apply to the Commission.

(42 U.S.C. 285g note) Enacted November 14, 1986, P.L. 99–660, sec. 205, 100 Stat. 3754.

SEC. 206. COMMISSION STAFF.

(a) EXECUTIVE DIRECTOR.—The Chairperson and Vice Chairperson of the Commission shall appoint an executive director. The employment of such executive director shall be subject to confirmation by the Commission.

(b) OTHER PERSONNEL.—The Commission may appoint and terminate the executive director selected under subsection (a) and such other personnel as it considers appropriate to assist in the performance of its duties under this title, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may pay such executive director and other personnel without regard to the provisions of chapter 51 and subchapter 111 of chapter 53 of such title relating to classification and General Schedule pay rates, except that the rate of pay for such executive director and other personnel may not exceed the rate payable for GS–18 of the General Schedule under section 5332 of such title.

(c) APPLICABILITY OF OTHER FEDERAL LAWS.—Service of an individual as a member of the Commission or employment of an individual by the Commission on a part-time or full-time basis and with or without compensation shall not be considered as service or employment bringing such individual within the provisions of any Federal law relating to conflicts of interest or otherwise imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with claims, proceedings, or matters involving the United States. Service as a member of the Commission or as an employee of the Commission, shall not be considered service in an appointive or elective position in the Government for purposes of section 8344 of title 5, United States Code, or comparable provisions of Federal law.

(d) EXPERTS AND CONSULTANTS.—Subject to such rules as may be prescribed by the Commission, the Chairman of the Commission may procure temporary and intermittent services under section 3109 of title 5, United States Code, at rates for individuals not to exceed the daily rate payable for GS–18 of the General Schedule under section 5332 of such title.

(42 U.S.C. 285g note) Enacted November 14, 1986, P.L. 99–660, sec. 206, 100 Stat. 3754–3755.

SEC. 207. SUNSHINE PROVISION.

The Commission shall establish procedures to ensure its proceedings are open to the public to the maximum extent practicable.

(42 U.S.C. 285g note) Enacted November 14, 1986, P.L. 99–660, sec. 207, 100 Stat. 3755.

SEC. 208. TERMINATION OF THE COMMISSION.

Ninety days after the Commission submits its recommendations as required by section 204(b)(4) the Commission shall terminate.

(42 U.S.C. 285g note) Enacted November 14, 1986, P.L. 99–660, sec. 208, 100 Stat. 3755.

SEC. 209. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Commission such sums as may be necessary. Amounts appropriated under this section shall remain available until the day on which the Commission terminates under section 208.

(42 U.S.C. 285g note) Enacted November 14, 1986, P.L. 99–660, sec. 209, 100 Stat. 3755.

NATIONAL ENVIRONMENTAL EDUCATION ACT

NATIONAL ENVIRONMENTAL EDUCATION ACT

AN ACT to promote environmental education, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) TITLE.—This Act may be cited as the "National Environmental Education Act".

(20 U.S.C. 5501 nt)

(b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.
Sec. 2. Findings and policy.
Sec. 3. Definitions.
Sec. 4. Office of Environmental Education.
Sec. 5. Environmental education and training program.
Sec. 6. Environmental education grants.
Sec. 7. Environmental internships and fellowships.
Sec. 8. Environmental education awards.
Sec. 9. Environmental Education Advisory Council and Task Force.
Sec. 10. National Environmental Education and Training Foundation.
Sec. 11. Authorization.

SEC. 2. FINDINGS AND POLICY.

(a) FINDINGS.—The Congress finds that—

(1) Threats to human health and environmental quality are increasingly complex, involving a wide range of conventional and toxic contaminants in the air and water and on the land.

(2) There is growing evidence of international environmental problems, such as global warming, ocean pollution, and declines in species diversity, and that these problems pose serious threats to human health and the environment on a global scale.

(3) Environmental problems represent as significant a threat to the quality of life and the economic vitality of urban areas as they do the natural balance of rural areas.

(4) Effective response to complex environmental problems requires understanding of the natural and built environment, awareness of environmental problems and their origins (including those in urban areas), and the skills to solve these problems.

(5) Development of effective solutions to environmental problems and effective implementation of environmental programs requires a well educated and trained, professional work force.

(6) Current Federal efforts to inform and educate the public concerning the natural and built environment and environmental problems are not adequate.

(7) Existing Federal support for development and training of professionals in environmental fields is not sufficient.

(8) The Federal Government, acting through the Environmental Protection Agency, should work with local education institutions, State education agencies, not-for-profit educational and environmental organizations, noncommercial educational broadcasting entities, and private sector interests to support development of curricula, special projects, and other activities, to increase understanding of the natural and built environment and to improve awareness of environmental problems.

(9) The Federal Government, acting through the coordinated efforts of its agencies and with the leadership of the Environmental Protection Agency, should work with local education institutions, State education agencies, not-for-profit educational and environmental organizations, noncommercial educational broadcasting entities, and private sector interests to develop programs to provide increased emphasis and financial resources for the purpose of attracting students into environmental engineering and assisting them in pursuing the programs to complete the advanced technical education required to provide effective problem solving capabilities for complex environmental issues.

(10) Federal natural resource agencies such as the United States Forest Service have a wide range of environmental expertise and a long history of cooperation with educational institutions and technology transfer that can assist in furthering the purposes of the Act.

(b) POLICY.—It is the policy of the United States to establish and support a program of education on the environment, for students and personnel working with students, through activities in schools, institutions of higher education, and related educational activities, and to encourage postsecondary students to pursue careers related to the environment.

(20 U.S.C. 5501)

SEC. 3. DEFINITIONS.

For the purposes of this Act, the term—

(1) "Administrator" means the Administrator of the Environmental Protection Agency;

(2) "Agency" means the United States Environmental Protection Agency;

(3) "Federal agency" or "agency of the United States" means any department, agency or other instrumentality of the Federal Government, any independent agency or establishment of the Federal Government including any Government corporation;

(4) "Secretary" means the Secretary of the Department of Education;

(5) "local education agency" means any education agency as defined in section 198 of the Elementary and Secondary

Education Act of 1965 (20 U.S.C. 3381) and shall include any tribal education agency;

(6) "not-for-profit" organization means an organization, association, or institution described in section 501(c)(3) of the Internal Revenue Code of 1986, which is exempt from taxation pursuant to the provisions of section 501(a) of such Code;

(7) "noncommercial education broadcasting entities" means any noncommercial educational broadcasting station (and/or its legal nonprofit affiliates) as defined and licensed by the Federal Communications Commission;

(8) "tribal education agency" means a school or community college which is controlled by an Indian tribe, band, or nation, including any Alaska Native village, which is recognized as eligible for special programs and services provided by the United States to Indians because of their status as Indians and which is not administered by the Bureau of Indian Affairs;

(9) "Federal natural resource management agencies" means the United States Forest Service, the Bureau of Land Management, the National Park Service, and the Fish and Wildlife Service;

(10) "environmental engineering" means the discipline within engineering and science concerned with the development and application of scientific and technical solutions to protecting the aquatic and atmospheric environment, including, but not limited to, all phases of water resources planning, water supply, water treatment, air pollution characterization and control, remediation of hazardous substances, environmental transport of contaminants in surface and ground water and atmosphere, and methods for assessment and control of pollution;

(11) "environmental education" and "environmental education and training" mean educational activities and training activities involving elementary, secondary, and postsecondary students, as such terms are defined in the State in which they reside, and environmental education personnel, but does not include technical training activities directed toward environmental management professionals or activities primarily directed toward the support of noneducational research and development;

(12) "Foundation" means the National Environmental Education and Training Foundation established pursuant to section 10 of this Act; and

(13) "Board of Directors" means the Board of Directors of the National Environmental Education and Training Foundation.

(20 U.S.C. 5502)

SEC. 4. OFFICE OF ENVIRONMENTAL EDUCATION.

(a) The Administrator shall establish an Office of Environmental Education within the Environmental Protection Agency.

(b) The Office of Environmental Education shall—

(1) develop and support programs and related efforts, in consultation and coordination with other Federal agencies, to improve understanding of the natural and built environment,

and the relationships between humans and their environment, including the global aspects of environmental problems;

(2) support development and the widest possible dissemination of model curricula, educational materials, and training programs for elementary and secondary students and other interested groups, including senior Americans;

(3) develop and disseminate, in cooperation with other Federal agencies, not-for-profit educational and environmental organizations, State agencies, and noncommercial educational broadcasting entities, environmental education publications and audio/visual and other media materials;

(4) develop and support environmental education seminars, training programs, teleconferences, and workshops for environmental education professionals, as provided for in section 5 of this Act;

(5) manage Federal grant assistance provided to local education agencies, institutions of higher education, other not-for-profit organizations, and noncommercial education broadcasting entities, under section 6 of this Act;

(6) administer the environmental internship and fellowship programs provided for in section 7 of this Act;

(7) administer the environmental awards program provided for in section 8 of this Act;

(8) provide staff support to the Advisory Council and Task Force provided for in section 9 of this Act;

(9) assess, in coordination with other Federal agencies, the demand for professional skills and training needed to respond to current and anticipated environmental problems and cooperate with appropriate institutions, organizations, and agencies to develop training programs, curricula, and continuing education programs for teachers, school administrators, and related professionals;

(10) assure the coordination of Federal statutes and programs administered by the Agency relating to environmental education, consistent with the provisions and purposes of those programs, and work to reduce duplication or inconsistencies within these programs;

(11) work with the Department of Education, the Federal Interagency Committee on Education, and with other Federal agencies, including Federal natural resource management agencies, to assure the effective coordination of programs related to environmental education, including environmental education programs relating to national parks, national forests, and wildlife refuges;

(12) provide information on environmental education and training programs to local education agencies, State education and natural resource agencies, and others; and

(13) otherwise provide for the implementation of this Act.

(c) The Office of Environmental Education shall—

(1) be directed by a Director who shall be a member of the Senior Executive Service;

(2) include a headquarters staff of not less than six and not more than ten full-time equivalent employees; and

(3) be supported by one full-time equivalent employee in each Agency regional office.

(20 U.S.C. 5503)

SEC. 5. ENVIRONMENTAL EDUCATION AND TRAINING PROGRAM.

(a) There is hereby established an Environmental Education and Training Program. The purpose of the program shall be to train educational professionals in the development and delivery of environmental education and training programs and studies.

(b) The functions and activities of the program shall include, at a minimum—

(1) classroom training in environmental education and studies including environmental sciences and theory, educational methods and practices, environmental career or occupational education, and topical environmental issues and problems;

(2) demonstration of the design and conduct of environmental field studies and assessments;

(3) development of environmental education programs and curriculum, including programs and curriculum to meet the needs of diverse ethnic and cultural groups;

(4) sponsorship and management of international exchanges of teachers and other educational professionals between the United States, Canada, and Mexico involved in environmental programs and issues;

(5) maintenance or support of a library of environmental education materials, information, literature, and technologies, with electronic as well as hard copy accessibility;

(6) evaluation and dissemination of environmental education materials, training methods, and related programs;

(7) sponsorship of conferences, seminars, and related forums for the advancement and development of environmental education and training curricula and materials, including international conferences, seminars, and forums;

(8) supporting effective partnerships and networks and the use of distant learning technologies; and

(9) such other activities as the Administrator determines to be consistent with the policies of this Act.Special emphasis should be placed on developing environmental education programs, workshops, and training tools that are portable and can be broadly disseminated.

(c)(1) The Administrator shall make a grant on an annual basis to an institution of higher education or other institution which is a not-for-profit institution (or consortia of such institutions) to operate the environmental education and training program required by this section.

(2) Any institution of higher education or other institution (or consortia of such institutions) which is a not-for-profit organization and is interested in receiving a grant under this section may submit to the Administrator an application in such form and containing such information as the Administrator may require.

(3) The Administrator shall award grants under this section on the basis of—

(A) the capability to develop environmental education and training programs;

(B) the capability to deliver training to a range of participants and in a range of settings;

(C) the expertise of the staff in a range of appropriate disciplines;

(D) the relative economic effectiveness of the program in terms of the ratio of overhead costs to direct services;

(E) the capability to make effective use of existing national environmental education resources and programs;

(F) the results of any evaluation under paragraph (5) of this subsection; and

(G) such other factors as the Administrator deems appropriate.

(4) No funds made available to carry out this section shall be used for the acquisition of real property (including buildings) or the construction or substantial modification of any building.

(5) The Administrator shall establish procedures for a careful and detailed review and evaluation of the environmental education and training program to determine whether the quality of the program being operated by the grantee warrants continued support under this section.

(d)(1) Individuals eligible for participation in the program are teachers, faculty, administrators and related support staff associated with local education agencies, colleges, and universities, employees of State education, environmental protection, and natural resource departments, and employees of not-for-profit organizations involved in environmental education activities and issues.

(2) Individuals shall be selected for participation in the program based on applications which shall be in such form as the Administrator determines to be appropriate.

(3) In selecting individuals to participate in the program, the Administrator shall provide for a wide geographic representation and a mix of individuals, including minorities, working at primary, secondary, postsecondary levels, and with appropriate other agencies and departments.

(4) Individuals selected for participation in the program may be provided with a stipend to cover travel and accommodations from grant funds awarded pursuant to this section in such amounts as the Administrator determines to be appropriate.

(20 U.S.C. 5504)

SEC. 6. ENVIRONMENTAL EDUCATION GRANTS.

(a) The Administrator may enter into a cooperative agreement or contract, or provide financial assistance in the form of a grant, to support projects to design, demonstrate, or disseminate practices, methods, or techniques related to environmental education and training.

(b) Activities eligible for grant support pursuant to this section shall include, but not be limited to, environmental education and training programs for—

(1) design, demonstration, or dissemination of environmental curricula, including development of educational tools and materials;

(2) design and demonstration of field methods, practices, and techniques, including assessment of environmental and ecological conditions and analysis of environmental pollution problems;

(3) projects to understand and assess a specific environmental issue or a specific environmental problem;

(4) provision of training or related education for teachers, faculty, or related personnel in a specific geographic area or region; and

(5) design and demonstration of projects to foster international cooperation in addressing environmental issues and problems involving the United States and Canada or Mexico.

(c) In making grants pursuant to this section, the Administrator shall give priority to those proposed projects which will develop—

(1) a new or significantly improved environmental education practice, method, or technique;

(2) an environmental education practice, method, or technique which may have wide application;

(3) an environmental education practice, method, or technique which addresses a skill or scientific field identified as a priority in the report developed pursuant to section 9(d) of this Act; and

(4) an environmental education practice, method, or technique which addresses an environmental issue which, in the judgment of the Administrator, is of a high priority.

(d) The program established by this section shall include solicitations for projects, selection of suitable projects from among those proposed, supervision of such projects, evaluation of the results of projects, and dissemination of information on the effectiveness and feasibility of the practices, methods, techniques and processes. Within one year of the date of enactment of this Act, the Administrator shall publish regulations to assure satisfactory implementation of each element of the program authorized by this section.

(e) Within 90 days after the date on which amounts are first appropriated for carrying out this Act, and each year thereafter, the Administrator shall publish a solicitation for environmental education grants. The solicitation notice shall prescribe the information to be included in the proposal and other information sufficient to permit the Administrator to assess the project.

(f) Any local education agency, college or university, State education agency or environmental agency, not-for-profit organization, or noncommercial educational broadcasting entity may submit an application to the Administrator in response to the solicitations required by subsection (e) of this section.

(g) Each project under this section shall be performed by the applicant, or by a person satisfactory to the applicant and the Administrator.

(h) Federal funds for any demonstration project under this section shall not exceed 75 percent of the total cost of such project. For the purposes of this section, the non-Federal share of project costs may be provided by inkind contributions and other noncash support. In cases where the Administrator determines that a proposed project merits support and cannot be undertaken without a higher rate of Federal support, the Administrator may approve grants under this section with a matching requirement other than that specified in this subsection, including full Federal funding.

(i) Grants under this section shall not exceed $250,000. In addition, 25 percent of all funds obligated under this section in a fiscal year shall be for grants of not more than $5,000.

(20 U.S.C. 5505)

SEC. 7. ENVIRONMENTAL INTERNSHIPS AND FELLOWSHIPS.

(a) The Administrator shall, in consultation with the Office of Personnel Management and other appropriate Federal agencies, provide for internships by postsecondary level students and fellowships for in-service teachers with agencies of the Federal Government.

(b) The purpose of internships and fellowships pursuant to this section shall be to provide college level students and in-service teachers with an opportunity to work with professional staff of Federal agencies involved in environmental issues and thereby gain an understanding and appreciation of such issues and the skills and abilities appropriate to such professions.

(c) The Administrator shall, to the extent practicable, support not less than 250 internships each year and not less than 50 fellowships each year.

(d) The internship and fellowship programs shall be managed by the Office of Environmental Education. Interns and fellows may serve in appropriate agencies of the Federal Government including, but not limited to, the Environmental Protection Agency, the Fish and Wildlife Service, the National Oceanic and Atmospheric Administration, the Council on Environmental Quality, Federal natural resource management agencies, the Department of Agriculture, and the National Science Foundation.

(e) Interns shall be hired on a temporary, full-time basis for not to exceed 6 months and shall be compensated appropriately. Fellows shall be hired on a temporary full-time basis for not to exceed 12 months and shall be compensated appropriately. Federal agencies hiring interns shall provide the funds necessary to support salaries and related costs.

(f)(1) Individuals eligible for participation in the internship program are students enrolled at accredited colleges or universities who have successfully completed not less than four courses or the equivalent in environmental sciences or studies, as determined by the Administrator.

(2) Individuals eligible for participation in the fellowship program are in-service teachers who are currently employed by a local education agency and have not less than 2 years experience in teaching environmental education, environmental sciences, or related courses.

(g) Individuals shall be selected for internships and fellowships based on applications which shall be in such form as the Administrator considers appropriate.

(h) In selecting individuals for internships and fellowships, the Administrator shall provide for wide geographic, cultural, and minority representation.

(20 U.S.C. 5506)

SEC. 8. ENVIRONMENTAL EDUCATION AWARDS.

(a) The Administrator shall provide for a series of national awards recognizing outstanding contributions to environmental education.

(b) In addition to such other awards as the Administrator may provide for, national environmental awards shall include—

(1) The "Theodore Roosevelt Award" to be given in recognition of an outstanding career in environmental education, teaching, or administration;

(2) The "Henry David Thoreau Award" to be given in recognition of an outstanding contribution to literature on the natural environment and environmental pollution problems;

(3) The "Rachael Carson Award" to be given in recognition of an outstanding contribution in print, film, or broadcast media to public education and information on environmental issues or problems; and

(4) The "Gifford Pinchot Award" to be given in recognition of an outstanding contribution to education and training concerning forestry and natural resource management, including multiple use and sustained yield land management.

(c) Recipients of education awards provided for in subsection (b) shall be nominated by the Environmental Education Advisory Council provided for in section 9 of this Act.

(d) The Administrator may provide for the "President's Environmental Youth Awards" to be given to young people in grades kindergarten through twelfth for an outstanding project to promote local environmental awareness.

(e)(1) The Chairman of the Council on Environmental Quality, on behalf of the President, is authorized to develop and administer an awards program to recognize elementary and secondary education teachers and their local educational agencies who demonstrate excellence in advancing environmental education through innovative approaches. One teacher, and the local education agency employing such teacher, from each State, including the District of Columbia and the Commonwealth of Puerto Rico, are eligible to be selected for an award pursuant to this subsection.

(2) The Chairman is authorized to provide a cash award of up to $2,500 to each teacher selected to receive an award pursuant to this section, which shall be used to further the recipient's professional development in environmental education.

(3) The Chairman is also authorized to provide a cash award of up to $2,500 to the local education agency employing any teacher selected to receive an award pursuant to this section, which shall be used to fund environmental educational activities and programs. Such awards may not be used for construction costs, general expenses, salaries, bonuses, or other administrative expenses.

(20 U.S.C. 5507)

SEC. 9. ENVIRONMENTAL EDUCATION ADVISORY COUNCIL AND TASK FORCE.

(a) There is hereby established a National Environmental Education Advisory Council and a Federal Task Force on Environmental Education.

(b)(1) The Advisory Council shall advise, consult with, and make recommendations to, the Administrator on matters relating to activities, functions, and policies of the Agency under this Act. With respect to such matters, the Council shall be the exclusive advisory entity for the Administrator. The Council may exchange information with other Advisory Councils established by the Administrator. The Office of Environmental Education shall provide staff support to the Council.

(2) The Advisory Council shall consist of 11 members appointed by the Administrator after consultation with the Secretary. Two members shall be appointed to represent primary and secondary education (one of whom shall be a classroom teacher); two members shall be appointed to represent colleges and universities; two members shall be appointed to represent not-for-profit organizations involved in environmental education; two members shall be appointed to represent State departments of education and natural resources; two representatives shall be appointed to represent business and industry; and one representative shall be appointed to represent senior Americans. A representative of the Secretary shall serve as an ex officio member of the Advisory Council. The conflict of interest provision at section 208(a) of title 18, United States Code, shall not apply to members' participation in particular matters which affect the financial interests of employers which they represent pursuant to this subsection.

(3) The Administrator shall provide that members of the Council represent the various geographic regions of the country, has minority representation, and that the professional backgrounds of the members include scientific, policy, and other appropriate disciplines.

(4) Each member of the Advisory Council shall hold office for a term of 3 years, except that—

(A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

(B) the terms of the members first taking office shall expire as follows: four shall expire 3 years after the date of enactment of this Act, four shall expire 2 years after such date, and three shall expire 1 year after such date, as designated by the Administrator at the time of appointment.

(5) Members of the Advisory Council appointed under this section shall, while attending meetings of the Council or otherwise engaged in business of the Council, receive compensation and allowances at a rate to be fixed by the Administrator, but not exceeding the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Council. While away from their homes or regular places of business in the performance of services for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

(6) Section 14(a) of the Federal Advisory Committee Act relating to termination, shall not apply to the Advisory Council.

(c)(1) The Federal Task Force on Environmental Education shall advise, consult with and make recommendations to the Administrator on matters relating to implementation of this Act and assure the coordination of such implementation activities with related activities of other Federal agencies.

(2) Membership of the Task Force shall include the—

(A) Department of Education,
(B) Department of the Interior,
(C) Department of Agriculture,
(D) the Environmental Protection Agency,
(E) National Oceanic and Atmospheric Administration,
(F) Council on Environmental Quality,
(G) Tennessee Valley Authority, and
(H) National Science Foundation.

(3) The Environmental Protection Agency shall chair the Task Force.

(4) The Administrator may ask other Federal agencies to participate in the meetings and activities of the Task Force where the Administrator finds it appropriate in carrying out the requirements of this Act.

(d)(1) The Advisory Council shall, after providing for public review and comment, submit to the Congress, within 24 months of enactment of this Act and biennially thereafter, a report which shall—

(A) describe and assess the extent and quality of environmental education in the Nation;

(B) provide a general description of the activities conducted pursuant to this Act and related authorities over the previous 2-year period;

(C) summarize major obstacles to improving environmental education (including environmental education programs relating to national parks and wildlife refuges) and make recommendations for addressing such obstacles;

(D) identify personnel skills, education, and training needed to respond to current and anticipated environmental problems and make recommendations for actions to assure sufficient educational and training opportunities in these professions; and

(E) describe and assess the extent and quality of environmental education programs available to senior Americans and make recommendations thereon; describe the various Federal agency programs to further senior environmental education; and evaluate and make recommendations as to how such educational apparatuses could best be coordinated with nonprofit senior organizations across the Nation, and environmental education institutions and organizations now in existence.

(2) The Federal Task Force on Environmental Education shall review and comment on a draft of the report to Congress.

(20 U.S.C. 5508)

SEC. 10. THE NATIONAL ENVIRONMENTAL EDUCATION AND TRAINING FOUNDATION.

(a) ESTABLISHMENT AND PURPOSES.—

(1) ESTABLISHMENT.—(A) There is hereby established the National Environmental Education and Training Foundation. The Foundation is established in order to extend the contribution of environmental education and training to meeting critical environmental protection needs, both in this country and internationally; to facilitate the cooperation, coordination, and contribution of public and private resources to create an environmentally advanced educational system; and to foster an open and effective partnership among Federal, State, and local government, business, industry, academic institutions, community based environmental groups, and international organizations.

(B) The Foundation is a charitable and nonprofit corporation whose income is exempt from tax, and donations to which are tax deductible to the same extent as those organizations listed pursuant to section 501(c) of the Internal Revenue Code of 1986. The Foundation is not an agency or establishment of the United States.

(2) PURPOSES.—The purposes of the Foundation are—

(A) subject to the limitation contained in the final sentence of subsection (d) herein, to encourage, accept, leverage, and administer private gifts for the benefit of, or in connection with, the environmental education and training activities and services of the United States Environmental Protection Agency;

(B) to conduct such other environmental education activities as will further the development of an environmentally conscious and responsible public, a well-trained and environmentally literate workforce, and an environmentally advanced educational system; [1]

(C) to participate with foreign entities and individuals in the conduct and coordination of activities that will further opportunities for environmental education and training to address environmental issues and problems involving the United States and Canada or Mexico.

(3) PROGRAMS.—The Foundation will develop, support, and/or operate programs and projects to educate and train educational and environmental professionals, and to assist them in the development and delivery of environmental education and training programs and studies.

(b) BOARD OF DIRECTORS.—

(1) ESTABLISHMENT AND MEMBERSHIP.—(A) The Foundation shall have a governing Board of Directors (hereafter referred to in this section as "the Board"), which shall consist of 13 directors, each of whom shall be knowledgeable or experienced in the environment, education and/or training. The Board shall oversee the activities of the Foundation and shall assure that the activities of the Foundation are consistent with the environmental and education goals and policies of the En-

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[1] So in original. Probably should end with "and"

vironmental Protection Agency and with the intents and purposes of this Act. The membership of the Board, to the extent practicable, shall represent diverse points of view relating to environmental education and training.

(B) The Administrator of the Environmental Protection Agency shall, pursuant to paragraph (2), appoint the Director of the Office of Environmental Education established pursuant to section 3 of this Act as an ex-officio member of the Board. Ex officio membership shall also be offered to other Federal agencies or departments with an interest and/or experience in environmental education and training.

(C) Appointment to the Board shall not constitute employment by, or the holding of an office of, the United States for the purposes of any Federal law.

(2) APPOINTMENT AND TERMS.—(A) Members of the Board shall be appointed by the Administrator of the Environmental Protection Agency.

(B) Within 90 days of the date of the enactment of this Act, and as appropriate thereafter, the Administrator shall publish in the Federal Register an announcement of appointments of Directors of the Board. At the same time, the Administrator shall transmit a copy of such announcement to the Education and Labor Committee and the Committee on Energy and Commerce of the House of Representatives and the Committee on Environment and Public Works of the United States Senate. Such appointments shall become final and effective 90 days after publication in the Federal Register.

(C) The directors shall be appointed for terms of 4 years, except that the Administrator, in making the initial appointments to the Board, shall appoint 5 directors to a term of 2 years, 4 directors to a term of 3 years, and 4 directors to a term of 4 years. The Administrator shall appoint an individual to serve as a director in the event of a vacancy on the Board within 60 days of said vacancy in the manner in which the original appointment was made. No individual may serve more than 2 consecutive terms as a director.

(3) CHAIR.—The Chair shall be elected by the Board from its members for a 2-year term.

(4) QUORUM.—A majority of the current membership of the Board shall constitute a quorum for the transaction of business.

(5) MEETINGS.—The Board shall meet at the call of the Chair at least twice a year. If a Director misses three consecutive regularly scheduled meetings, that individual may be removed from the Board and that vacancy filled in accordance with this subsection.

(6) REIMBURSEMENT OF EXPENSES.—Members of the Board shall serve without pay, but may be reimbursed for the actual and necessary traveling and subsistence expenses incurred by them in the performance of the duties of the Foundation.

(7) GENERAL POWERS.—(A) The Board may complete the organization of the Foundation by—

(i) appointing officers and employees;

(ii) adopting a constitution and bylaws consistent with the purposes of the Foundation and the provisions of this section; and

(iii) undertaking such other acts as may be necessary to carry out the provisions of this section.

(B) The following limitations apply with respect to the appointment of officers and employees of the Foundation:

(i) Officers and employees may not be appointed until the Foundation has sufficient funds to pay for their service. Officers and employees of the Foundation shall be appointed without regard to the provisions of title 5, of the United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 or subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay in effect for grade GS–18 of the General Schedule.

(ii) The first officer or employee appointed by the Board shall be the Executive Director of the Foundation who—

(I) shall serve, at the direction of the Board, as the Secretary of the Board and the Foundation's chief executive officer; and

(II) shall be experienced in matters relating to environmental education and training.

(c) RIGHTS AND OBLIGATIONS OF THE FOUNDATION.—

(1) IN GENERAL.—The Foundation—

(A) shall have perpetual succession;

(B) may conduct business throughout the several States, territories, and possessions of the United States and abroad;

(C) shall have its principal offices in the District of Columbia or in the greater metropolitan area; and

(D) shall at all times maintain a designated agent authorized to accept service of process for the Foundation.

The service of notice to, or service of notice upon, the agent required under paragraph (4), or mailed to the business address of such agent, shall be deemed as service upon or notice to the Foundation.

(2) SEAL.—The Foundation shall have an official seal selected by the Board which shall be judicially noticed.

(3) POWERS.—To carry out its purposes under section 10(a) of this Act, the Foundation shall have, in addition to the powers otherwise given it under this section, the usual powers of a corporation acting as a trustee, including the power—

(A) to accept, receive, solicit, hold, administer, and use any gift, devise, or bequest, either absolutely or in trust, of real or personal property or any income therefrom or other interest therein;

(B) to acquire by purchase or exchange any real or personal property or interest therein;

(C) unless otherwise required by the instrument of transfer, to sell, donate, lease, invest, reinvest, retain, or otherwise dispose of any property or income therefrom;

(D) to sue, or to be sued, and complain or defend itself in any court of competent jurisdiction, except that the Directors of the Board shall not be personally liable, except for gross negligence;

(E) to enter into contracts or other arrangements with public agencies and private organizations and persons and to make such payments as may be necessary to carry out its functions; and

(F) to do any and all acts necessary and proper to carry out the purposes of the Foundation.

(d) CONDITIONS ON DONATIONS.—

(1) For the purposes of this section, a gift, devise, or bequest may be accepted by the Foundation even though it is encumbered, restricted, or subject to beneficial interests of private persons if any current future interest therein is for the benefit of the Foundation.

(2) No donation, gift, devise, bequest, property (either real or personal), voluntary services, or any other thing of value may be accepted by the Foundation if it—

(A) is contingent upon the transmission by the Foundation of materials or information prepared by the donor or a third party in such a fashion as to convey a particular point of view favorable to the economic interests of the donor or its constituents or associates; or

(B) in the judgment of the Board carries with it an explicit or implied requirement on the part of the Foundation to do a specific act or make general representations which are tō the benefit of the donor and which are not consistent with the environmental and education goals and policies of the Environmental Protection Agency and with the intents and purposes of this Act.

(3) No materials bearing "logos", letterhead or other means of identification associated with a donor or third party may be transmitted by the Foundation, for use in environmental education and training except as required pursuant to subsection (f).

(e) ADMINISTRATIVE SERVICES AND SUPPORT.—Subject to the requirements of this subsection, the Administrator may provide personnel, facilities, and other administrative services to the Foundation, including reimbursement of expenses under subsection (b)(6) of this section, not to exceed then current Federal Government per diem rates, for a period of up to 4 years from the date of enactment of this Act, and may accept reimbursement therefor, to be deposited in the Treasury to the credit of the appropriations then current and chargeable for the costs of providing such services. With respect to personnel, the Administrator may provide no more than 1 full-time employee to serve the Foundation in a policy capacity, and may provide clerical and other support staff at a level equivalent to 2 full-time equivalent employees to the Foundation, for a period not to exceed 2 years from the date of initial assignment of any personnel for this purpose.

(f) REPORT.—The Foundation shall, as soon as practicable after the end of each fiscal year, transmit to Congress a report of its proceedings and activities during the year, including a full and complete statement of its receipts, expenditures, and investments.

(g) VOLUNTEER STATUS.—The Administrator may accept, without regard to the civil service classification laws, rules, or regulations, the services of the Foundation, the Board, and the officers and employees of the Board, without compensation from the Environmental Protection Agency, as volunteers in the performance of the functions authorized herein, in the manner provided for under this section.

(h) AUDITS AND PETITION OF THE ATTORNEY GENERAL FOR EQUITABLE RELIEF.—For purposes of the Act entitled "An Act for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (Public Law 88–504; 36 U.S.C. 1101–1103), the Foundation shall be treated as a private corporation established under Federal law.

(i) UNITED STATES RELEASE FROM LIABILITY.—The United States shall not be liable for any debts, defaults, acts, or omissions of the Foundation nor shall the full faith and credit of the United States extend to any obligation of the Foundation.

(j) AMENDMENT AND REPEAL.—The Congress expressly reserves the right to repeal or amend this section at any time.

(20 U.S.C. 5509)

SEC. 11. AUTHORIZATION.

(a) There is hereby authorized to be appropriated to the Environmental Protection Agency to carry out this Act not to exceed $12,000,000 for each fiscal year 1992 and 1993, not to exceed $13,000,000 for fiscal year 1994, and not to exceed $14,000,000 for each fiscal year 1995 and 1996.

(b) Of such sums appropriated in a fiscal year, 25 percent shall be available for the activities of the Office of Environmental Education, 25 percent shall be available for the operation of the environmental education and training program, 38 percent shall be available for environmental education grants, 10 percent shall be available for support of the National Environmental Education and Training Foundation, and 2 percent shall be available to support awards pursuant to section 8(e) of this Act.

(c) Funds appropriated pursuant to this section may be made available to the National Environmental Education and Training Foundation to—

(1) match partially or wholly the amount or value of contributions (whether in currency, services, or property) made to the Foundation by private persons and State and local governments; and

(2) provide administrative services under section 10(d) of this Act:

Provided, That the Administrator determines that such funds will be used to carry out the statutory purposes of the Foundation in a manner consistent with the goals, objectives and programs of this Act.

(20 U.S.C. 5510)

CONGRESSIONAL AWARD ACT

Congressional Award Act

AN ACT To establish a Congressional Award Board to administer a Congressional Award Program designed to encourage initiative and achievement among youths.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Congressional Award Act".

(2 U.S.C. 801 note)

ESTABLISHMENT OF THE CONGRESSIONAL AWARD BOARD

SEC. 2. There is established a board to be known as the Congressional Award Board (hereinafter in this Act referred to as the "Board"), which shall be responsible for administering the Congressional Award Program described under section 3 of this Act. The Board shall not be an agency or instrumentality of the United States, and the United States is not liable for any obligation or liability incurred by the Board.

(2 U.S.C. 801) Enacted Nov. 16, 1979, sec. 2, P.L. 96–114, 93 Stat. 851.

CONGRESSIONAL AWARD PROGRAM

SEC. 3. (a) The Board shall establish and administer a program to be known as the Congressional Award Program, which shall be designed to promote initiative, achievement, and excellence among youths in the areas of public service, personal development, and physical and expedition fitness. Under the program gold, silver, and bronze medals shall be awarded to young people within the United States, aged fourteen through twenty-three (subject to such exceptions as the Board may prescribe), who have satisfied the standards of achievement established by the Board under subsection (b) of this section. The medals shall be of such design and materials as the Board may determine.

(b) In carrying out the Congressional Award Program, the Board shall—

(1) establish the standards of achievement required for young people to qualify as recipients of the medals and establish such procedures as may be required to verify that individuals satisfy such qualifications;

(2) designate the recipients of the medals in accordance with the standards established under paragraph (1) of this subsection;

(3) delineate such roles as the Board considers to be appropriate for the Director and Regional Directors in administering the Congressional Award, and set forth in the bylaws of the

Board the duties, salaries, and benefits of the Director and Regional Directors;

(4) raise funds for the operation of the program; and

(5) take such other actions as may be appropriate for the administration of the Congressional Award Program.

No salary established by the Board under paragraph (3) shall exceed $75,000 per annum, except that for calendar years after 1986, such limit shall be increased in proportion to increases in the Consumer Price Index.

(c) The Board shall arrange for the presentation of the awards to the recipients and shall provide for participation by Members of Congress in such presentation, when appropriate. To the extent possible, recipients shall be provided with opportunities to exchange information and views with Members of Congress during the presentation of the awards.

(d) The Board may award scholarships in such amounts as the Board determines to be appropriate to any recipient of the Congressional Award Gold, Silver, and Bronze Medals.

(e) The Board shall prepare and submit an annual report to the Congress before April 1 of each year summarizing the activities of the Congressional Award Program during the previous year and making appropriate recommendations. Any minority views and recommendations of members of the Board shall be included in such reports. The annual report shall contain the following items:

(1) Specific information regarding the methods used to raise funds for the Congressional Award Program and a list of the sources of all money raised by the Board.

(2) Detailed information regarding the expenditures made by the Board, including the percentage of funds which are used for administrative expenses.

(3) A description of the programs formulated by the Director under section 5(b)(1), including an explanation of the operation of such programs and a list of their sponsors.

(4) A detailed list of the administrative expenditures made by the Board, including the amounts expended for salaries, travel expenses, and reimbursed expenses for each member, officer, employee, and consultant of the Board (or of the Corporation established pursuant to section 7(g)(1)).

(5) A list of individuals given awards under the program, and their place of residence.

(6) A detailed description of the goals and objectives of the Board and the role of Congressional participation in fulfilling those goals and objectives.

(7) Plans for activities to be conducted during the remainder of the duration of the program, consistent with the functions and requirements established under this Act.

(8) Such other information as the Board may consider significant.

(2 U.S.C. 802) Enacted Nov. 16, 1979, sec. 3, P.L. 96-114, 93 Stat. 851; amended Nov. 25, 1985, sec. 4(a)-(c), P.L. 99-161, 99 Stat. 934; amended Nov. 17, 1988, sec. 2(a), P.L. 100-674, 102 Stat. 3996; amended Nov. 6, 1990, sec. 3, P.L. 101-525, 104 Stat. 2305.

Note: Section 3 of Public Law 100–674, which was enacted on November 17, 1988, provides as follows: "Not later than 120 days after the date of the enactment of this Act, the congressional leadership shall appoint members to fill vacancies on the Congressional Award Board in accordance with section 4(a) of the Congressional Award Act (as amended by section 2(b)). In filling such vacancies, the congressional leadership shall first appoint members from the Congressional Award Association and local Congressional Award Councils in accordance with section 4(a) of the Congressional Award Act (as amended by section 2(b)).".

MEMBERSHIP OF THE BOARD

SEC. 4. (a)(1) The Board shall consist of 25 members, as follows:

(A) Six members appointed by the majority leader of the Senate, 1 of whom shall be a member of the Congressional Award Association.

(B) Six members appointed by the minority leader of the Senate, 1 of whom shall be a representative of a local Congressional Award Council.

(C) Six members appointed by the Speaker of the House of Representatives, 1 of whom shall be a representative of a local Congressional Award Council.

(D) Six members appointed by the minority leader of the House of Representatives, 1 of whom shall be a member of the Congressional Award Association.

(E) The Director of the Board, who shall serve as a nonvoting member.

(2) In making appointments to the Board, the congressional leadership shall consider recommendations submitted by any interested party, including any member of the Board. One of the members appointed under each of subparagraphs (A) through (D) of paragraph (1) shall be a member of the Congress.

(3) Individuals appointed to the Board shall have an interest in one or more of the fields of concern of the Congressional Award Program.

(4) For the purpose of determining the derivation of the appointment of any person appointed to the Board under this section, if there is a change in the status of majority and minority between the parties of the House or the Senate, each person appointed under this section shall be deemed to have been appointed by the leadership position set out in subsection (a)(1) of the party of the individual who made the initial appointment of such person.

(b)(1) Appointed members of the Board shall continue to serve at the pleasure of the officer by whom they are appointed, and (unless reappointed under paragraph (3)) shall serve for a term of 4 years.

(2) For the purpose of adjusting the terms of Board members to allow for staggered appointments, the following distribution of Board terms shall take effect at the first meeting of the Board occurring after the date of the enactment of the Congressional Award Amendments of 1990:

(A) Those members who have served 10 years or more, as of the date of such meeting, shall have an appointment expiring on a date 2 years from October 1, 1990.

(B) Those members who have served for 6 months or less, as of the date of such meeting, shall have an appointment expiring on a date 6 years from October 11, 1990.

(C) All other members shall apportion the remaining Board positions between equal numbers of 2 and 4 year terms (providing that if there are an unequal number of remaining members, there shall be a predominance of 4 year terms), such apportionment to be made by lot.

(3)(A) Subject to the limitations in subparagraphs (B) and (C) of this paragraph, members of the Board may be reappointed, provided that no member may serve more than 2 consecutive terms.

(B) Members of the Board covered under paragraph (2)(A) of this section[1] shall not be eligible for reappointment to the Board. Members of the Board covered under subparagraphs (B) and (C) of paragraph (2) of this section[1] may be reappointed for 1 additional consecutive 4 year term.

(C) Members of the Board who serve as chairman of the Board shall not have the time during which they serve as chairman used in the computation of their period of service for purposes of this paragraph and paragraph (2).

(c)(1) Any vacancy in the Board shall be filled in the same manner in which the original appointment was made.

(2) Any appointed member of the Board may continue to serve after the expiration of his term until his successor has taken office.

(3) Vacancies in the membership of the Board shall not affect its power to function if there remain sufficient members to constitute a quorum under subsection (d) of this section.

(d)(1) A meeting of the Board may be convened only if—

(A) notice of the meeting was provided to each member in accordance with the bylaws; and

(B) not less than 11 members are present for the meeting at the time given in the notice.

(2) A majority of the members present when a meeting is convened shall constitute a quorum for the remainder of the meeting.

(e) Members of the Board shall serve without pay but may be compensated for reasonable travel expenses incurred by them in the performance of their duties as members of the Board.

(f) The Board shall meet at least twice a year at the call of the Chairman (with at least one meeting in the District of Columbia) and at such other times as the Chairman may determine to be appropriate. The Chairman shall call a meeting of the Board whenever one-third of the members of the Board submit written requests for such a meeting.

(g) The Chairman and the Vice Chairman of the Board shall be elected from among the members of the Board by a majority vote of the Board for such terms as the Board determines. The Vice Chairman shall perform the duties of the Chairman in his absence.

(h)(1) The Board may appoint such committees, and assign to the committees such functions, as may be appropriate to assist the Board in carrying out its duties under this Act. Members of such committees may include the members of the Board or such other qualified individuals as the Board may select.

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[1] So in law. Probably should be "subsection".

(2) Any employee or officer of the Federal Government may serve as a member of a committee created by the Board, but may not receive compensation for services performed for such a committee.

(i) The Board shall establish such bylaws and other regulations as may be appropriate to enable the Board to carry out its functions under this Act. Such bylaws and other regulations shall include provisions to prevent any conflict of interest, or the appearance of any conflict of interest, in the procurement and employment actions taken by the Board or by any officer or employee of the Board. Such bylaws shall include appropriate fiscal control, funds accountability, and operating principles to ensure compliance with the provisions of section 7 of this Act. A copy of such bylaws shall be transmitted to each House of Congress not later than 90 days after the date of enactment of the Congressional Award Amendments of 1985 and not later than 10 days after any subsequent amendment or revision of such bylaws.

(j) Any member of the Board who fails to attend 4 consecutive Board meetings scheduled pursuant to the bylaws of the Board and for which proper notice has been given under such bylaws, or to send a designee of such member (approved in advance by the Board under provisions of its bylaws), is, by operation of this subsection, removed, for cause, from the Board as of the date of the last meeting from which they are absent. The Chairman of the Board shall take such steps as are necessary to inform members who have 3 absences of this subsection. The Chairman shall notify the House and the Senate, including the appropriate committees of each body, whenever there is a vacancy created by the operation of this subsection.

(2 U.S.C. 803) Enacted Nov. 16, 1979, sec. 4, P.L. 96–114, 93 Stat. 852; amended May 25, 1983, sec. 1, P.L. 98–33, 97 Stat. 194; amended Nov. 25, 1985, sec. 4(d), (e), P.L. 99–161, 99 Stat. 934, 935; amended Nov. 17, 1988, sec. 2(b), P.L. 100–674, 102 Stat. 3996; amended Nov. 6, 1990, secs. 4, 5, 6, P.L. 101–525, 104 Stat. 2305, 2306.

NATIONAL DIRECTOR

SEC. 5. (a) In the administration of the Congressional Award Program, the Board shall be assisted by a Director, who shall be the principal executive of the program and who shall supervise the affairs of the Board. The Director shall be appointed by a majority vote of the Board, and shall serve for such term as the Board may determine. The Director may be removed by a majority vote of the Board.

(b) The Director shall, in consultation with the Board—

(1) formulate programs to carry out the policies of the Congressional Award Program;

(2) establish such divisions within the Congressional Award Program as may be appropriate; and

(3) employ and provide for the compensation of such personnel as may be necessary to carry out the Congressional Award Program, subject to such policies as the Board shall prescribe under its bylaws.

(c)(1) The Director shall, in consultation with the Board, ensure that appropriate procedures for fiscal control and fund accounting are established for the financial operations of the Congressional Award Program, and that such operations are administered by personnel with expertise in accounting and financial management. Such personnel may be retained under contract. In carrying out this paragraph, the Director shall ensure that the liabilities of the Board do not, for any calendar year, exceed the assets of the Board.

(2)(A) The Comptroller General of the United States shall determine, for calendar years 1993 and 1994, whether the Director has substantially complied with paragraph (1). The findings made by the Comptroller General under the preceding sentence shall be included in the first report submitted under section 8(b) after December 31, 1994.

(B) If the Director fails to substantially comply with paragraph (1), the Board shall take such actions as may be necessary to prepare, pursuant to section 9, for the orderly cessation of the activities of the Board.

(2 U.S.C. 804) Enacted Nov. 16, 1979, sec. 5, P.L. 96–114, 93 Stat. 853; amended October 23, 1992, sec. 2, P.L. 102–457, 106 Stat. 2265.

REGIONAL AWARD DIRECTORS

SEC. 6. Regional award directors may be appointed by the Board, upon recommendation of the Director, for any State or other appropriate geographic area of the United States. The Director shall make such recommendations with respect to a State or geographic area only after soliciting recommendations regarding such appointments from public and private youth organizations within such State or geographic area.

(2 U.S.C. 805) Enacted Nov. 16, 1979, sec. 6, P.L. 96–114, 93 Stat. 853.

POWERS, FUNCTIONS, AND LIMITATIONS

SEC. 7. (a) Subject to such limitations as may be provided for under this section, the Board may take such actions and make such expenditures as may be necessary to carry out the Congressional Award Program, except that—

(1) the Board shall carry out its functions and make expenditures with only such resources as are available to the Board from sources other than the Federal Government; and

(2) the Board shall not take any actions which would disqualify the Board from treatment (for tax purposes) as an organization described in section 501(c)(3) of the Internal Revenue Code of 1954.

(b)(1) The Board shall establish such functions and procedures as may be necessary to carry out the provisions of this Act.

(2) The functions established by the Board under paragraph (1) shall include—

(A) communication with local Congressional Award Councils concerning the Congressional Award Program;

(B) provision, upon the request of any local Congressional Award Council, of such technical assistance as may be necessary to assist such council with its responsibilities, including the provision of medals, the preparation and provision of applications, guidance on disposition of applications, arrangements with respect to local award ceremonies, and other responsibilities of such council;

(C) conduct of outreach activities to establish new local Congressional Award Councils, particularly in inner-city areas and rural areas;

(D) in addition to those activities authorized under subparagraph (C), conduct of outreach activities to encourage, where appropriate, the establishment and development of Statewide Congressional Award Councils;

(E) fundraising;

(F) conduct of an annual Gold Medal Awards ceremony in the District of Columbia;

(G) consideration of implementation of the provisions of this Act relating to scholarships; and

(H) carrying out of duties relating to management of the national office of the Congressional Award Program, including supervision of office personnel and of the office budget.

(c)(1) In carrying out its functions with respect to Statewide Congressional Award Councils (hereinafter in this subsection referred to as Statewide Councils) under subsection (b), the Board shall develop guidelines, criteria, and standards for the formation of Statewide Councils. In order to create a Statewide Council, Members of Congress and Senators from each respective State are encouraged to work jointly with the Board.

(2) The establishment of Statewide Councils is intended to—

(A) facilitate expanded public participation and involvement in the program; and

(B) promote greater opportunities for involvement by members of the State congressional delegation.

(3) The duties and responsibilities of each Statewide Council established pursuant to this section shall include, but not be limited to, the following:

(A) promoting State and local awareness of the Congressional Award Program;

(B) review of participant records and activities;

(C) review and verification of information on, and recommendation of, candidates to the national board for approval;

(D) planning and organization of bronze and silver award ceremonies;

(E) assisting gold award recipients with travel to and from the national gold award ceremony; and

(F) designation of a Statewide coordinator to serve as a liaison between the State and local boards and the national board.

(4) Each Statewide Council established pursuant to this section is authorized to receive public monetary and in-kind contributions, which may be made available to local boards to supplement or defray operating expenses. The Board shall adopt appropriate financial management methods in order to ensure the proper accounting of these funds.

(5) Each Statewide Council established pursuant to this section shall comply with the standard charter requirements of the national board of directors.

(d) The Board may enter into and perform such contracts as may be appropriate to carry out its business, but the Board may not enter into any contract which would obligate the Board to expend an amount greater than the amount available to the Board for the purpose of such contract during the fiscal year in which the expenditure is made.

(e)(1) Subject to the provisions of paragraph (2), the Board may seek and accept funds and other resources to carry out its activities. The Board may not accept any funds or other resources which are—

(A) donated with a restriction on their use unless such restriction merely provides that such funds or other resources be used in furtherance of the Congressional Award Program or a specific regional or local program; and

(B) donated subject to the condition that the identity of the donor of the funds or resources shall remain anonymous.

The Board may permit donors to use the name of the Board or the name "Congressional Award Program" in advertising.

(2) Except as otherwise provided in this Act, the Board may not receive any Federal funds or resources. The Board may benefit from in-kind and indirect resources provided by Offices of Members of Congress or the Congress. Further, the Board is not prohibited from receiving indirect benefits from efforts or activities undertaken in collaboration with entities which receive Federal funds or resources.

(f) The Board may accept and utilize the services of voluntary, uncompensated personnel.

(g) The Board may lease (or otherwise hold), acquire, or dispose of real or personal property necessary for, or relating to, the duties of the Board.

(h) The Board shall have no power—

(1) to issue bonds, notes, debentures, or other similar obligations creating long-term indebtedness;

(2) to issue any share of stock or to declare or pay any dividends; or

(3) to provide for any part of the income or assets of the Board to inure to the benefit of any director, officer, or employee of the Board except as reasonable compensation for services or reimbursement for expenses.

(i)(1) The Board shall provide for the establishment of a private nonprofit corporation for the sole purpose of assisting the Board to carry out the Congressional Award Program, and shall delegate to the corporation such duties as it considers appropriate.

(2) The articles of incorporation of the corporation established under this subsection shall provide that—

(A) the members of the Board of Directors of the corporation shall be the members of the Board, and the Director of the corporation shall be the Director of the Board; and

(B) the extent of the authority of the corporation shall be the same as that of the Board.

(3) No director, officer, or employee of any corporation established under this subsection may receive compensation, travel expenses, or benefits from both the corporation and the Board.

(2 U.S.C. 806) Enacted Nov. 16, 1979, sec. 7, P.L. 96–114, 93 Stat. 854; amended Nov. 25, 1985, sec. 4(f), P.L. 99–161, 99 Stat. 935; amended Oct. 22, 1986, sec. 2, P.L. 99–514, 100 Stat. 2095; amended Nov. 17, 1988, sec. (2)(c), P.L. 100–674, 102 Stat. 3997; amended Nov. 6, 1990, sec. 7, P.L. 101–525, 104 Stat. 2306.

AUDITS AND EVALUATION

SEC. 8. (a) The financial records of the Board and of any corporation established under section 7(i) shall be audited annually by the Comptroller General of the United States (hereinafter in this section referred to as the "Comptroller General"). The Comptroller General, or any duly authorized representative of the Comptroller General, shall have access for the purpose of audit to any books, documents, papers, and records of the Board or such corporation (or any agent of the Board or such corporation) which, in the opinion of the Comptroller General, may be pertinent to the Congressional Award Program.

(b) The Comptroller General shall submit to appropriate officers, committees, and subcommittees of the Congress, by May 15th of each calendar year, a report on the results of the audit of the financial records and on any such additional areas as the Comptroller General determines deserve or require evaluation.

(2 U.S.C. 807) Enacted Nov. 16, 1979, sec. 8, P.L. 96–114, 93 Stat. 855; amended Nov. 25, 1985, sec. 4(g), P.L. 99–161, 99 Stat. 935; amended Nov. 17, 1988, sec. 2(e), P.L. 100–674, 102 Stat. 3999; amended Nov. 6, 1990, sec. 8, P.L. 101–525, 104 Stat. 2308.

TERMINATION

SEC. 9. The Board shall terminate October 1, 1995.

(2 U.S.C. 808) Enacted Nov. 16, 1979, sec. 9, P.L. 96–114, 93 Stat. 855; amended Nov. 25, 1985, sec. 3, P.L. 99–161, 99 Stat. 934; amended Nov. 17, 1988, sec. (2)(d), P.L. 100–674, 102 Stat. 3999; amended Nov. 6, 1990, sec. 2(a), P.L. 101–525, 104 Stat. 2305; amended October 23, 1992, sec. 3, P.L. 102–457, 106 Stat. 2266.

DOMESTIC VOLUNTEER SERVICE ACT OF 1973

DOMESTIC VOLUNTEER SERVICE ACT OF 1973

(Public Law 93-113)

AN ACT To provide for the operation of programs by the ACTION Agency, to establish certain new such programs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, with the following table of contents, may be cited as the "Domestic Volunteer Service Act of 1973".

(42 U.S.C. 4950 note)

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[1] Effective January 1, 1986, the item 405 is repealed (P.L. 98–288).

[2] Section 413 was deleted pursuant to section 5(b) of Public Law 94–293.

[TITLE VII—YOUTHBUILD PROJECTS][3]

VOLUNTEERISM POLICY

SEC. 2. (a) Because of the long-standing importance of volunteerism throughout American history, it is the policy of the Congress to foster the tradition of volunteerism through greater involvement on the part of both young and older citizens.

(b) The purpose of ACTION, the Federal domestic volunteer agency, is to foster and expand voluntary citizen service in communities throughout the Nation in activities designed to help the poor, the disadvantaged, the vulnerable, and the elderly. In carrying out this purpose, ACTION shall utilize to the fullest extent the programs authorized under this Act, coordinate with other Federal, State, and local agencies and utilize the energy, innovative spirit, experience, and skills of all Americans.

(42 U.S.C. 4950)

TITLE I—NATIONAL VOLUNTEER ANTIPOVERTY PROGRAMS

PART A—VOLUNTEERS IN SERVICE TO AMERICA

STATEMENT OF PURPOSE

SEC. 101. This part provides for the Volunteers in Service to America (VISTA) program of full-time volunteer service, together with appropriate powers and responsibilities designed to assist in the development and coordination of such program. The purpose of this part is to strengthen and supplement efforts to eliminate and alleviate poverty and poverty-related problems in the United States by encouraging and enabling persons from all walks of life, all geographical areas, and all age groups, including low-income individuals, elderly and retired Americans, to perform meaningful and constructive volunteer service in agencies, institutions, and situations where the application of human talent and dedication may assist in the solution of poverty and poverty-related problems and secure and exploit opportunities for self-advancement by persons afflicted with such problems. In addition the objective of this part is to generate the commitment of private sector resources and to encourage volunteer service at the local level to carry out the purposes set forth in this section.

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[3] Section 211 of Public Law 100-610 failed to add the following items to the table of contents:

TITLE VII—YOUTHBUILD PROJECTS

Sec. 701. Statement of purpose.
Sec. 702. Authorization of program.
Sec. 703. Service in construction and rehabilitation projects.
Sec. 704. Education and job training services.
Sec. 705. Use of funds.
Sec. 706. Eligible participants.
Sec. 707. Living allowances.
Sec. 708. Contracts.
Sec. 709. Performance standards.
Sec. 710. Applications.
Sec. 711. Selection of projects.
Sec. 712. Management and technical assistance.
Sec. 713. Definitions.
Sec. 715. Regulations.[1]
Sec. 716. Authorization of appropriations.[1]

[1] Error in amendment made by section 211 of Public Law 101-610. Sections 715 and 716 should be redesignated as sections 714 and 715, respectively.

(42 U.S.C. 4951)

AUTHORITY TO OPERATE VISTA PROGRAM

SEC. 102. The Director may recruit, select, and train persons to serve in full-time volunteer programs consistent with the provisions and to carry out the purpose of this part.

(42 U.S.C. 4952)

SELECTION AND ASSIGNMENT OF VOLUNTEERS

SEC. 103. (a) The Director, on the receipt of applications by a public or nonprofit private organizations to receive volunteers under this part, may assign volunteers selected under subsection (b) to work in appropriate projects and programs sponsored by such organizations, including work—

(1) in meeting the health, education, welfare, or related needs of Indians living on reservations or Federal trust lands, of migratory and seasonal farmworkers and their families, and of residents of the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, or the Virgin Islands;

(2) in the care and rehabilitation of mentally ill, developmentally disabled, and other handicapped individuals, especially those with severe handicaps; and [1]

(3) in addressing the problems of the homeless, the jobless, the hungry, illiterate or functionally illiterate youth and other individuals, and low-income youths;

(4) in addressing the special needs connected with alcohol and drug abuse prevention, education, and related activities, consistent with the purpose of this part;

(5) in addressing significant health care problems, including chronic and life-threatening illnesses and health care for homeless individuals (especially homeless children) through prevention, treatment, and community-based care activities; and

(6) in connection with programs or activities authorized, supported, or of a character eligible for assistance under this Act or the Community Service Block Grant Act, titles VIII and X of the Economic Opportunity Act of 1964, the Headstart act, or the Community Economic Development Act of 1981, in furtherance of the purpose of this title.

(b)(1) The Director shall establish recruitment and placement procedures that offer opportunities for both local and national placement of volunteers for service under this part.

(2)(A) The Director shall establish and maintain within the national headquarters of the ACTION Agency a volunteer placement office. The office shall be headed by an individual designated by the Director to be the national Administrator of Recruitment and Placement, who shall be responsible for carrying out the functions described in this subsection and subsection (c) and all other functions delegated by the Director relating to the recruitment and placement of volunteers under this part.

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[1] P.L. 98–288 struck out ", and" at the end of 103(a)(2). The amendment fails because a semicolon, not a comma precedes "and".

(B) Such volunteer placement office shall develop, operate, and maintain a current and comprehensive central information system that shall, on request, promptly provide information—

(i) to individuals, with respect to specific opportunities for service as a volunteer with approved projects or programs to which no volunteer has been assigned; and

(ii) to approved projects or programs, with respect to the availability of individuals whose applications for service as a volunteer have been approved and who are awaiting an assignment with a specific project or program.

(C) The Director shall, at a minimum, designate one employee of the ACTION Agency in each region of the United States whose primary duties and responsibilities shall be to assist the Administrator in carrying out the functions described in this subsection and subsection (c).

(D) The Director shall assign or hire as necessary, such additional national, regional, and State personnel to carry out the functions described in this subsection and subsection (c) as may be necessary to ensure that such functions are carried out in a timely and effective manner. The Director shall give priority in the hiring of such additional personnel to individuals who have formerly served as volunteers under this part and to individuals who have specialized experience in the recruitment of volunteers.

(3) Volunteers shall be selected from among qualified individuals submitting an application for such service at such time, in such form, and containing such information as may be necessary to evaluate the suitability of each individual for such service and to determine, in accordance with paragraph (7), the most appropriate assignment for each such volunteer. The Director shall approve the application of each individual who applies in conformance with this subsection and who, on the basis of the information provided in the application, is determined by the Director to be qualified to serve as a volunteer under this part.

(4) Each application for service as a volunteer under this part shall—

(A) indicate the period of time during which the applicant is available to serve as a volunteer under this part;

(B) describe the previous education, training, military and work experience, and any other relevant skills or interests of the applicant;

(C) specify the State or geographic region in which the applicant prefers to be assigned; and

(D) specify—

(i) the type of project or program to which the applicant prefers to be assigned; or

(ii) the particular project or program to which the applicant prefers to be assigned.

(5) The Director shall ensure that applications for service as a volunteer under this part are available to the public on request to the ACTION Agency (including any State or regional offices of the Agency) and that an individual making such request is informed of

the manner in which such application is required to be submitted. A completed application may be submitted by any interested individual to, and shall be accepted by, any office of the ACTION Agency.

(6) Completed applications received by the ACTION Agency shall be forwarded to the regional ACTION office representing the State in which such applicant resides. The regional or State employees designated in subparagraphs (C) and (D) of paragraph (2) shall assist in evaluating such applications and, to the extent feasible and appropriate, interviewing applicants.

(7)(A) The Director shall provide for the assignment of each applicant approved as a volunteer under this part to a project or program that is, to the maximum extent practicable, consistent with the abilities, experiences, and preferences of such applicant that are set forth in the application described in paragraph (4) and the needs and preferences of projects or programs approved for the assignment of such volunteers.

(B) In carrying out subparagraph (A), the Director shall utilize the information system established under paragraph (2)(B).

(C) A sponsoring organization of VISTA may recruit volunteers for service under this part. The Director shall give a locally recruited volunteer priority for placement in the sponsoring organization of VISTA that recruited such volunteer.

(D) A volunteer under this part shall not be assigned to any project or program without the express approval and consent of such project or program.

(E) If an applicant under this part who is recruited locally becomes unavailable for service prior to the commencement of service, the recipient of the project grant or contract that was designated to receive the services of such applicant may replace such applicant with another qualified applicant approved by the Director.

(F) If feasible and appropriate, low-income community volunteers shall be given the option of serving in the home communities of such volunteers in teams with nationally recruited specialist volunteers. The Director shall attempt to assign such volunteers to serve in the home or nearby communities of such volunteers and shall make national efforts to attract other individuals to serve in the VISTA program. The Director shall also, in the assignment of volunteers under this subparagraph, recognize that community-identified needs that cannot be met in the local area and the individual desires of VISTA volunteers in regard to the service in various geographical areas of the United States should be taken into consideration.

(c)(1) The Director, in conjunction with the regional or State employees designated in subparagraphs (C) and (D) of subsection (b)(2), shall engage in public awareness and recruitment activities. Such activities shall include—

(A) public service announcements through radio, television, and the print media;

(B) advertising through the print media, direct mail, and other means;

(C) disseminating information about opportunities for service as a volunteer under this part to relevant entities including institutions of higher education and other educational institutions (including libraries), professional associations, community-based agencies, youth service and volunteer organizations, business organizations, labor unions, senior citizens organizations, and other institutions and organizations from or through which potential volunteers may be recruited;

(D) disseminating such information through presentations made personally by employees of the ACTION Agency or other designees of the Director, to students and faculty at institutions of higher education and to other entities described in subparagraph (C), including presentations made at the facilities, conventions, or other meetings of such entities;

(E) publicizing the student loan deferment and forgiveness opportunities available to VISTA volunteers under parts B and E of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.) and including such information in all applications and recruitment materials;

(F) providing, on request, technical assistance with the recruitment of volunteers under this part to programs and projects receiving assistance under this part; and

(G) maintaining and publicizing a national toll-free telephone number through which individuals may obtain information about opportunities for service as a volunteer under this part and request and receive an application for such service.

(2) In designing and implementing the activities authorized under this section, the Director shall seek to involve individuals who have formerly served as volunteers under this part to assist in the dissemination of information concerning the program established under this part. The Director may reimburse the costs incurred by such former volunteers for such participation, including expenses incurred for travel.

(3) The Director shall consult with the Director of the Peace Corps to coordinate the recruitment and public awareness activities carried out under this subsection with those of the Peace Corps and to develop joint procedures and activities for the recruitment of volunteers to serve under this part.

(4) At the beginning of each fiscal year, the Director shall develop an annual plan for the recruitment of volunteers under this part that—

(A) describes in detail (including the cost) the recruitment and public awareness activities carried out during the preceding fiscal year and evaluates the effectiveness of such activities;

(B) identifies methods and goals for the recruitment of volunteers during the fiscal year in which such plan is made, including specific methods and goals for the recruitment of individuals 55 years of age and older, individuals 18 through 27 years of age, recent graduates of institutions of higher education, and special skilled volunteers; and [1]

(C) describes in detail (including the expected cost) the recruitment and public awareness activities that shall be undertaken throughout the year to achieve the goals specified in subparagraph (B); and

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[1] So in law. The word "and" probably should not appear.

(D) describes in detail (including the expected cost) the recruitment and public awareness activities that shall be undertaken throughout the year to achieve the goals for the recruitment of individuals described in subparagraph (B).

(5) The Director shall ensure that not less than 20 percent of all volunteers under this part are 55 years of age or older and that, by the beginning of fiscal year 1991 and for each fiscal year thereafter, not less than 20 percent of all such volunteers are between 18 and 27 years of age, (inclusive).

(6) Beginning in fiscal year 1991 and for each fiscal year thereafter, for the purpose of carrying out this subsection, the Director shall obligate not less than 1.5 percent of the amounts appropriated for each fiscal year under section 501(a).

(d) The Director shall provide each low-income community volunteer with an individual plan for job advancement or for transition to a situation leading to gainful employment. Whenever feasible, such efforts shall be coordinated with an appropriate private industry council under the Job Training Partnership Act.

(e) The Director may provide or arrange for educational and vocational counseling of volunteers and recent former volunteers under this part to (1) encourage them to use, in the national interest, the skills and experience which they have derived from their training and service, particularly working in combating poverty as members of the helping professions, and (2) promote the development of appropriate opportunities for the use of such skills and experience, and the placement therein of such volunteers.

(f) Except as provided in subsection (e), the assignment of volunteers under this section shall be on such terms and conditions (including restrictions on political activities that appropriately recognize the special status of volunteers living among the persons or groups served by programs to which they have been assigned) as the Director may determine, including work assignments in their own or nearby communities.

(g) Volunteers under this part shall not be assigned to work in a program or project in any community unless the application for such program or project contains evidence of local support and has been submitted to the Governor or other chief executive officer of the State concerned, and such Governor or other chief executive officer has not, within 45 days of the date of such submission, notified the Director in writing, supported by a statement of reasons, that such Governor or other chief executive officer disapproves such program or project. In the event of a timely request in writing, supported by a statement of reasons, by the Governor or other chief executive officer of the State concerned, the Director shall terminate a program or project or the assignment of a volunteer to a program or project not later than 30 days after the date such request is received by the Director, or at such later date as is agreed upon by the Director and such Governor or other chief executive officer.

(42 U.S.C. 4953)

TERMS AND PERIODS OF SERVICE

SEC. 104. (a) Volunteers serving under this part shall be required to make a full-time personal commitment to combating poverty and poverty-related problems. To the maximum extent practicable, the requirement for full-time commitment shall include a commitment to live among and at the economic level of the people served, and to remain available for service without regard to regular working hours, at all times during their periods of service, except for authorized periods of leave.

(b) Volunteers serving under this part may be enrolled for periods of service not exceeding two years, but for not less than one-year periods of service, except that volunteers serving under this part may be enrolled for periods of service of less than one year when the Director determines, on an individual basis, that a period of service of less than one year is necessary to meet a critical scarce-skill need. Volunteers serving under this part may be reenrolled for periods of service totaling not more than two years. No volunteer shall serve for more than a total of five years under this part.

(c) Volunteers under this part shall, upon enrollment, take the oath of office as prescribed for persons appointed to any office of honor or profit by section 3331 of title 5, United States Code, and shall swear (or affirm) that the volunteer does not advocate the overthrow of the constitutional form of government of the United States and that the volunteer is not a member of an organization that advocates the overthrow of the constitutional form of government of the United States, knowing that such organization so advocates, except that persons legally residing within a State but who are not citizens or nationals of the United States, may serve under this part without taking or subscribing to such oath, if the Director determines that the service of such persons will further the interests of the United States. Such persons shall take such alternative oath or affirmation as the Director shall deem appropriate.

(d) The Director shall establish a procedure, including notice and opportunity to be heard, for volunteers under this part to present and obtain resolution of grievances and to present their views in connection with the terms and conditions of their service. The Director shall promptly provide to each volunteer in service on the date of enactment of this Act, and to each such volunteer beginning service thereafter, information regarding such procedure and the terms and conditions of their service.

(42 U.S.C. 4954)

SUPPORT SERVICE

SEC. 105. (a)(1) The Director may provide a stipend to volunteers, while they are in training and during their assignments, enrolled for periods of service of not less than one year under this part, except that the Director may, on an individual basis, make an exception to provide a stipend to a volunteer enrolled under this part for an extended period of service not totaling one year. Such stipend shall not exceed $75 per month in fiscal year 1990, $90 per month in fiscal year 1991, and $95 per month in subsequent fiscal years during the volunteer's service, except that the Director may provide a stipend not to exceed $75 per month in fiscal year 1990, $90 per month in fiscal year 1991, and $95 per month in subsequent fiscal years in the case of persons who have served for at least one year and who, in accordance with standards established in regulations which the Director shall prescribe, have been designated volunteer leaders on the basis of experience and special skills and a demonstrated leadership among volunteers.

(2) Stipends shall be payable only upon completion of a period of service, except that under such circumstances as the Director shall determine, in accordance with regulations which the Director shall prescribe, the accrued stipend, or any part of the accrued stipend, may be paid to the volunteer, or, on behalf of the volunteer, to members of the volunteer's family or others during the period of the volunteer's service. In the event of the death of a volunteer during service, the amount of any unpaid stipend shall be paid in accordance with the provisions of section 5582 of title 5, United States Code.

(b)(1) The Director shall also provide volunteers such living, travel (including travel to and from places of training and to and from locations to which volunteers are assigned during periods of service) and leave allowances, and such housing, supplies, equipment, subsistence, clothing, health and dental care, transportation, supervision, preservice training and where appropriate in-service training, technical assistance and such other support as the Director deems necessary and appropriate to carry out the purpose and provisions of this part, and shall insure that each such volunteer has available such allowances and support as will enable the volunteer to carry out the purpose and provisions of this part and to effectively perform the work to which such volunteer is assigned.

(2) The Director shall set the subsistence allowance for volunteers under paragraph (1) for each fiscal year so that—

(A) the minimum allowance is not less than an amount equal to 95 percent of such poverty line (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) for a single individual as expected for each fiscal year; and

(B) the average subsistence allowance, excluding allowances for Hawaii, Guam, American Samoa, and Alaska, is no less than 105 percent of such poverty line.

(3)(A) The Director shall consult with regional and State offices of the ACTION Agency to make a determination of the cost of living within each State and whether there are significant local price differentials within the State.

(B) The Director shall adjust the subsistence allowances for volunteers serving in areas that have a higher cost of living than the national average to reflect such higher cost.

(4) The Director, in coordination with regional and State offices of the ACTION Agency and taking into account paragraphs (2) and (3), shall establish a method for setting subsistence allowances. The Director shall submit a report on such methods to the appropriate authorizing committees of Congress not later than 90 days after the date of enactment of the fiscal year 1990 appropriation.

(42 U.S.C. 4955)

PARTICIPATION OF BENEFICIARIES

SEC. 106. To the maximum extent practicable, the people of the communities to be served by volunteers under this title shall participate in planning, developing, and implementing programs thereunder, and the Director, after consultation with sponsoring agencies (including volunteers assigned to them) and the people served by such agencies, shall establish in regulations a continuing mechanism for the meaningful participation of such program beneficiaries.

(42 U.S.C. 4956)

PARTICIPATION OF OLDER PERSONS

SEC. 107. In carrying out this part and part C of this title, the Director shall take necessary steps, including the development of special projects, where appropriate, to encourage the fullest participation of older persons and older persons membership groups as volunteers and participant agencies in the various programs and activities authorized under such parts and because of the high proportion of older persons within the poverty group, shall encourage the development of a variety of volunteer services to older persons, including special projects, to assure that such persons are served in proportion to their need.

(42 U.S.C. 4957)

LIMITATION[1]

SEC. 108. (a) Of funds appropriated for the purpose of this part under section 501, not more than 30 percent for the fiscal year ending September 30, 1984, and for each fiscal year thereafter, may be obligated for the direct cost of supporting volunteers in programs or projects carried out pursuant to grants and contracts made under section 402(12).

(b) No funds shall be obligated under this part pursuant to grants or contracts made after the date of the enactment of the Domestic Volunteer Service Act Amendments of 1979 for new projects for the direct cost of supporting volunteers unless the recipient of each such grant or contract has been selected through a competitive process which includes—

(1) public announcements of the availability of funds for such grants or contracts, general criteria for the selection of new recipients, and a description of the application process and the application review process; and

(2) a requirement that each applicant for any such grant or contract identify, with sufficient particularity to assure that the assignments of volunteers under such grants and contracts will carry out the purpose of this part, the particular poverty or poverty-related problems on which the grant or contract will

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[1] New section 108 was added by section 4(a)(1) of Public Law 94-293, supra. Section 4(c) of Public Law 94-293 provides that the new section 108 "shall be effective on October 1, 1976, and shall not apply to any agreement for the assignment of volunteers entered into before such date during the period of any such agreement."

focus, and any such grant or contract shall specifically so identify such problems.

(42 U.S.C. 4958)

VISTA LITERACY CORPS

Sec. 109. (a) As part of the Volunteers in Service to America program established under this part, the Director shall establish a VISTA Literacy Corps for the purpose of developing, strengthening, supplementing, and expanding efforts of both public and nonprofit organizations at the local, State, and Federal level to mobilize local, State, Federal, and private sector financial and volunteer resources to address the problem of illiteracy throughout the United States.

(b) The Director shall assign volunteers to projects and programs that meet the antipoverty criteria of part A that provide assistance to functionally illiterate and illiterate individuals who are unserved or underserved by literacy education programs, with special emphasis upon disadvantaged individuals having the highest risk of illiteracy, and individuals with the lowest reading and educational level of competence.

(c)(1) The Director shall assign volunteers under this subsection to projects and programs that utilize volunteers to address the needs of illiterate individuals.

(2) Programs and projects under this subsection may be administered by public or private nonprofit agencies and organizations including local, State, and national literacy councils and organizations; community-based nonprofit organizations; local and State education agencies; local and State agencies administering adult basic education programs; educational institutions; libraries; antipoverty organizations; local, municipal, and State governmental entities, and administrative entities designated to administer job training plans under the Job Training Partnership Act.

(3) In the assignment of volunteers under this subsection the Director shall give priority consideration to—

(A) programs and projects that assist illiterate individuals in greatest need of assistance residing in unserved or underserved areas with the highest concentrations of illiteracy and of low income individuals and families;

(B) projects and programs serving individuals reading at the zero to fourth grade levels;

(C) projects and programs focusing on providing literacy services to high risk populations;

(D) projects and programs operating in areas with the highest concentration of individuals and families living at or below the poverty level;

(E) projects and programs providing literacy services to parents of disadvantaged children between the ages of two and eight, who may be educationally at risk; and

(F) Statewide programs and projects that encourage the creation of new literacy efforts, encourage the coordination of intrastate literacy efforts and provide technical assistance to local literacy efforts.

(d)(1) The Director shall assign volunteers under this subsection to projects and programs that primarily utilize volunteers to tutor illiterate individuals.

(2) Programs and projects under this subsection may be administered by local public or private nonprofit agencies and organizations including local literacy councils and organizations, community-based nonprofit organizations, local educational agencies, local agencies administering adult basic education programs, local educational institutions, libraries, antipoverty organizations, local and municipal governmental entities, and administrative entities designated to administer job training plans under the Job Training Partnership Act.

(3) In the assignment of volunteers under this subsection the Director shall give priority consideration to local programs and projects that assist illiterate individuals in greatest need of assistance residing in unserved or underserved areas with the highest concentrations of illiteracy and of low income individuals and families.

(e) The Director shall ensure an equitable distribution of volunteers under this section in accordance with the equitable distribution requirement of section 414 of this Act.

(f) The VISTA Literacy Corps shall consist of all volunteers serving under part A working on literacy projects and programs.

(g)(1) Funds made available under section 501(a) for the purposes of this section shall be used to supplement and not supplant the level of services provided under part A in fiscal year 1986 to address the problem of illiteracy. The Director shall ensure that records are maintained to indicate the degree of compliance with this requirement.

(2) In any fiscal year in which the services provided under part A are reduced, the services provided under this section shall be proportionately reduced.

(h)(1) Subject to paragraphs (2) and (3), with respect to any individual providing volunteer services in the program under this section regarding literacy, the Director may, with the written consent of the individual, assign the individual to serve in the general program under this part regarding literacy.

(2) To the extent practicable and without undue delay, the Director shall ensure that a volunteer under this section is assigned to the vacancy created within the relevant literacy project or program established under this section.

(3) Nothing in this subsection shall diminish or otherwise affect the requirement in subsection (g)(1) that funds made available for this section shall be used to supplement and not to supplant the 1986 level of literacy services provided under part A.

(42 U.S.C. 4959)

SEC. 110. APPLICATIONS FOR ASSISTANCE BY PREVIOUS RECIPIENTS.

(a) DURATION.—The Director shall not deny assistance under this part to any project or program, or any public or private nonprofit organization, solely on the basis of the duration of the assistance such project, program, or organization has previously received under this part.

(b) CONSIDERATION OF APPLICATION.—The Director shall consider each application for the renewal of assistance under this part to any project or program on an individualized, case-by-case basis, taking into account—

(1) the extent to which the sponsoring organization has made good faith efforts to achieve the goals agreed on in the application of such project or program; and

(2) any extenuating circumstance beyond the control of the sponsoring organization that may have prevented, delayed, or otherwise impaired the achievement of such goals.

(c) NEW PROJECT OR PROGRAM.—The Director shall consider each application for assistance under this part for a new project or program, that is submitted by a public or private nonprofit organization that has previously received such assistance (so long as such new project or program is clearly distinct from activities for which the organization has previously received such assistance), on an equal basis with all other applications for such assistance and without regard for the fact that the organization has previously received such assistance.

(d) RENEWAL OF ASSISTANCE.—With respect to any consideration that relates to the duration of assistance under this part and that is applied by the Director in the case of a request for a renewal of assistance under this part, the Director may not apply any such consideration against any entity that is—

(1) functioning as an intermediary between the Director and organizations requesting such renewal and ultimately receiving such assistance; and

(2) utilized by such organizations—

(A) to prepare and submit applications for such assistance to the Director; and

(B) to perform other administrative functions and services associated with applying for and receiving such assistance.

(e) ELIGIBILITY.—All eligible public and private nonprofit organizations shall be able to apply for assistance under this part.

(f) NOTICE.—The Director shall ensure that the language of each of subsections (a) through (e) is included verbatim in—

(1) an application developed by the agency for use by individuals who request assistance under this part for a project or program; and

(2) any regulation or guideline issued for the program established under this part.

(42 U.S.C. 4960)

PART B—STUDENT COMMUNITY SERVICE PROGRAMS

STATEMENT OF PURPOSE

SEC. 111. (a) The purpose of this part is to assist students, through service-learning and community service programs, to undertake volunteer service in such a way as to enhance the educational value of the service experience, through participation in activities that strengthen and supplement efforts to eliminate and alleviate poverty and poverty-related problems. Its purpose further is to provide technical assistance and training to encourage other students and faculty to engage in volunteer service on a part-time, self-supporting basis, to meet the needs of the poor in the surrounding community through expansion of service-learning and community service programs and otherwise.

(b) This part provides for the University Year for ACTION (UYA) program of full-time volunteer service by students enrolled in institutions of higher education. The purpose of the UYA program is to strengthen and supplement efforts to eliminate poverty and poverty-related human, social, and environmental problems by enabling students at cooperating institutions to perform meaningful and constructive volunteer service in connection with the satisfaction of course-work while attending such institutions. Volunteer service under this part is conducted in agencies, institutions, and situations where the application of human talent and dedication may assist in the solution of poverty and poverty-related problems and secure and exploit opportunities for self-advancement by individuals experiencing such problems.

(42 U.S.C. 4971)

AUTHORITY TO OPERATE UNIVERSITY YEAR FOR ACTION PROGRAM

SEC. 112. Except as otherwise provided in this part, the Director is authorized to conduct or make grants and contracts for, or both, programs to carry out the purposes of this part in accordance with the authorities and subject to the restrictions in the provisions of part A of this title, except for the provisions of sections 103(f) and 104(d), and except that the Director may, in accordance with regulations the Director shall prescribe, determine to reduce or eliminate the stipend for volunteers serving under this part on the basis of the value of benefits provided such volunteers by the institution in question (including the reduction or waiver of tuition).

(42 U.S.C. 4972)

SPECIAL CONDITIONS

SEC. 113. (a) Volunteers serving under this part shall be enrolled for periods of service as provided for in subsection (b) of section 104, except that volunteers serving in the University Year for ACTION program may be enrolled for periods of service of not less than the duration of an academic year, but volunteers enrolled for less than 12 months shall not receive stipends under section 105(a)(1). Volunteers serving under this part may receive academic credit for such service in accordance with the regulations of the sponsoring institution of higher education.

(b) Grants to and contracts with institutions to administer programs under this part shall provide that prospective student volunteers shall participate substantially in the planning of such programs and that such institutions shall make available to the poor in the surrounding community all available facilities, including human resources, of such institutions in order to assist in meeting the needs of such poor persons.

(c)(1) In making grants or contracts for the administration of UYA programs under this part, the Director shall insure that financial assistance under this Act to programs carried out pursuant to section 112 of this part shall not exceed 90 per centum of the total cost (including planning costs) of such program during the first year and such amounts less than 90 per centum as the Director, in consultation with the institution, may determine for not more than four additional years, including years in which support was received under title VIII of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2991–2994d). Each such grant or contract shall stipulate that the institution will make every effort to (A) assume an increasing proportion of the cost of continuing a program carrying out the purpose of this part while the institution receives support under this part; (B) waive or otherwise reduce tuition for participants in such program, where such waiver is not prohibited by law; (C) utilize students and faculty at such institution to carry out, on a self-supporting basis, appropriate planning for such programs; and (D) maintain similar service-learning programs after such institution no longer receives support under this part.

(2) The Director shall take necessary steps to monitor the extent of compliance by such institutions with commitments entered into under paragraph (1) of this subsection and shall advise the Secretary of Health and Human Services of the extent of each such institution's compliance.

(42 U.S.C. 4973)

STUDENT COMMUNITY SERVICE PROGRAMS

SEC. 114. (a) The Director is authorized to make grants and contracts for technical assistance, training, and projects which encourage and enable students in secondary, secondary vocational, and postsecondary schools to participate in service-learning and community service programs on an in-school or out-of-school basis in assignments of a character and on such terms and conditions as are described in subsections (a) and (e) of section 103. Any project assisted under this part shall meet the anti-poverty criteria of section 111 and contain an educational and service component.

(b) Persons serving as volunteers under this section shall not be deemed to be Federal employees for any purposes.

(c) The Director may provide volunteers serving under this section a living allowance and only such other support or allowance as he determines, pursuant to regulations which the Director shall prescribe, are required because of unusual or special circumstances affecting the program.

(42 U.S.C. 4974)

PART C—SPECIAL VOLUNTEER PROGRAMS

STATEMENT OF PURPOSE

SEC. 121. This part provides for special emphasis and demonstration volunteer programs, together with appropriate powers and responsibilities designed to assist in the development and coordination of such programs. The purpose of this part is to strengthen and supplement efforts to meet a broad range of needs, particularly those related to poverty, by encouraging and enabling persons from all walks of life and from all age groups to perform meaningful and constructive volunteer service in agencies, institutions, and situations where the application of human talent and dedication may help to meet such needs. It is the further purpose of this part to provide technical and financial assistance to encourage voluntary organizations and volunteer efforts at the national, State, and local level.

(42 U.S.C. 4991)

AUTHORITY TO ESTABLISH AND OPERATE PROGRAMS

SEC. 122. (a)(1) The Director is authorized to conduct or make grants or contracts, or both, for special volunteer programs in urban and rural areas (including Indian reservations) or demonstration programs (such as but not limited to a program to provide alternatives to the incarceration of youthful offenders, a program to promote educational opportunities for veterans, a program to provide community-based peer group outreach and counseling for drug abusers, a program of assistance to victims of domestic violence, a program to provide technical and management assistance to distressed communities, a program designed to provide personal and group financial counseling to low-income and fixed-income individuals (utilizing volunteers with specialized or technical expertise), and a Helping Hand program designed to stimulate and initiate improved methods of providing volunteer services, to encourage wider volunteer participation on a full-time, part-time, or short-term basis to further the purpose of this part, and to identify particular segments of the poverty community which could benefit from volunteer and other antipoverty efforts. In carrying out programs authorized by this part, the Director is authorized to provide for the recruitment, selection, and training of volunteers.

(2) For purposes of this subsection, the term "Helping Hand" program means a program utilizing person-to-person services to reduce the necessity for institutionalization (in hospitals, mental institutions, nursing homes, other extended-care settings, and other facilities) and to ameliorate residential isolation (through senior centers, half-way house facilities, and other residential settings) of older persons, handicapped persons, and other affected persons, stressing interactions between persons from various age groups, particularly young and old, and carried out in coordination with the appropriate State system for the protection and advocacy of the rights of persons with developmental disabilities established pursuant to section 113 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6012).

(b) Except as provided in subsection (c) of this section, assignment of volunteers under this section shall be on such terms and conditions as the Director shall determine, pursuant to regulations which the Director shall prescribe.

(c)(1) The Director, in accordance with regulations which the Director shall prescribe, may provide to volunteers enrolled for periods of part-time service of not less than 20 hours per week for not less than 26 consecutive weeks under this part such allowances, support, and services as are described in section 105(b) and as the Director determines are necessary to carry out the purpose of this part, and shall apply the provisions of sections 104(c) and 105(b) to the service of volunteers enrolled for full-time service under this part.

(2) The Director, in accordance with regulations which the Director shall prescribe with respect to volunteers enrolled for periods of full-time service of not less than one year under this part—

(A) may provide such volunteers such stipends, in total amounts not in excess of stipends provided under section 105(a) to volunteers serving under part A of this title, as the Director determines are necessary to carry out the purpose of this part; and

(B) to the extent that the terms and conditions of the service of such volunteers are of similar character to the terms and conditions of the service of volunteers enrolled under part A of this title, shall apply to the service of such volunteers enrolled under this part the provisions of sections 103(b) relating to low-income community volunteers, 103(f), 104(d), and 105(a) to the extent such provisions are applied to the service of volunteers enrolled under such part A.

(d)(1) In carrying out programs authorized by this part, the Director shall establish criteria to make grants and enter into contracts, in each fiscal year, on the basis of merit and the equitable geographic distribution of programs.

(2) No grant or contract exceeding $50,000 shall be made under this part unless the grantee or contractor has been selected by a competitive process which includes public announcement of the availability of funds for such grant or contract, general criteria for the selection of recipients or contractors, and a description of the application process and application review process.

(3) After the date of enactment of the Domestic Volunteer Service Act Amendments of 1989, no grant or contract under this part may exceed $250,000.

(4) Multiple grants or contracts to the same grantee or contractor within any one year to support activities having the same general purpose shall be deemed to be a single grant for the purpose of this subsection, but multiple grants or contracts to the same grantee or contractor to support clearly distinct activities shall be considered separate grants or contracts.

(e) None of the amounts made available under section 501(c) for fiscal year 1990 or subsequent fiscal years may be expended for the purpose of establishing or operating any State office with respect to volunteerism.

(42 U.S.C. 4992)

TECHNICAL AND FINANCIAL ASSISTANCE FOR IMPROVEMENT OF VOLUNTEER PROGRAMS

SEC. 123. (a) The Director may provide technical and financial assistance to Federal agencies, State and local governments and agencies, and private nonprofit organizations, which utilize or desire to utilize volunteers in connection with carrying out the purpose of this part. Such assistance may be used to facilitate and improve (1) methods of recruiting, training, or utilizing volunteers, (2) technical assistance and training programs, including the creation or expansion of private capabilities where possible and the development of voluntary organizations, with particular emphasis on low-income, minority, and community-based groups, or (3) the administration of volunteer programs. In providing such technical and financial assistance, the Director shall utilize, to the maximum extent feasible, existing programs, and shall seek to avoid duplication of existing programs in the public or private sectors.

(b)(1) The Director shall provide assistance for identification, development, and dissemination of effective literacy materials and programs by grant or contract to public and private nonprofit organizations whose principal purpose is combatting of illiteracy and its associated problems.

(2) The Director shall consult with and annually submit summaries of exemplary projects based on project reports to the national clearinghouse on literacy education, as designated under section 372(d)(2) of the Adult Education Act (20 U.S.C. 1211a(d)(2)).

(3) The emphasis for the grants or contracts under paragraph (1) shall be—

(A) broadly disseminating information relating to training and technical assistance for the use of volunteers in projects or programs providing literary services in poor urban and rural areas, including English language literacy services for individuals with limited English proficiency; or

(B) developing new and innovative solutions to illiteracy problems that involve the more effective and extensive use of volunteers in such projects or programs.

(42 U.S.C. 4993)

DRUG ABUSE EDUCATION AND PREVENTION SERVICES AND ACTIVITIES

SEC. 124. (a) The Director is authorized to engage in activities that mobilize and initiate private sector efforts to increase voluntarism in preventing drug abuse through public awareness and education (including grants, contracts, conferences, speakers bureau, public-private partnerships and technical assistance to nonprofit and for-profit organizations).

(b)(1) The Director is authorized to make grants to public and nonprofit organizations for innovative, community-based volunteer demonstration projects which provide comprehensive drug abuse education and prevention services and activities to youths during the summer months. Such projects may include—

(A) extending effective school-based programs, or other programs operated during the school year, to the summer months;

(B) developing or expanding summer recreational, volunteer service, and youth development activities to provide for youths positive alternatives to illicit drug use; and

(C) incorporating drug abuse education and prevention activities in public and private programs which serve youths during the summer months.

(2) In awarding grants under this subsection, the Director shall give priority to projects that—

(A) serve high-risk youths; and

(B) provide opportunities for parent involvement.

(3) For the purposes of this subsection, the term "high-risk youth" has the meaning given such term in section 5122(b)(2) of the Elementary and Secondary Education Act of 1965.

(c) In awarding grants and contracts under this section, the Director shall give priority to drug abuse education and prevention projects that serve communities, including rural communities, that have not previously received assistance under this part.

(d) The Director shall provide for the evaluation of activities and projects conducted with financial assistance received under this section. An application for a grant under this section in excess of $10,000 shall include a description of the methods to be used in evaluating the impact any activities and programs financed through such grant have on the drug abuse problem within the communities where such activities and projects are carried out.

(c)[1] The Director may provide technical assistance, by grant or contract, to employers who have established or desire to establish worksite literacy programs to assist such employers in obtaining, training, and integrating volunteers into worksite literacy programs. The Director shall coordinate any activities assisted under this subsection with the Department of Education Workplace Literacy programs established under part C of the Adult Education Act (20 U.S.C. 1201 et seq.).

(42 U.S.C. 4994)

LITERACY CHALLENGE GRANTS

SEC. 125. (a) The Director is authorized to award challenge grants to eligible public agencies and private organizations to pay the Federal share of the costs of establishing, operating or expanding community or employee literacy programs or projects that include the use of full-time or part-time volunteers as one method of addressing illiteracy.

(b) Each eligible organization desiring a grant under this section shall submit to the ACTION Agency an application in such form and accompanied by such information as the Director may reasonably require. Each such application shall—

(1) describe the activities for which assistance is sought,

(2) contain assurances that the eligible organization will provide from non-Federal sources the non-Federal share of the cost of the program or project,

(3) provide assurances, satisfactory to the Director, that the literacy project will be operated in cooperation with other public and private agencies and organizations interested in, and qualified to, combat illiteracy in the community where the project is to be conducted, and

(4) contain such other information and assurances as the Director may reasonably require.

(c)(1)(A) The Federal share of the cost of a program or project authorized by this section administered by a public agency, a nonprofit organization other than an organization described in paragraph (2), or a private, for-profit organization shall not exceed—

(i) 80 percent in the first fiscal year;

(ii) 70 percent in the second fiscal year; and

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[1] So in law. This second subsection "(c)" probably should be redesignated as "(e)".

(iii) 60 percent in the third fiscal year.

(B) The non-Federal share paid by a private, for-profit organization shall be in cash.

(2) The Federal share of the cost of a program or project administered by a nonprofit or community-based organization shall not exceed—

(A) 90 percent in the first fiscal year;

(B) 80 percent in the second fiscal year; and

(C) 70 percent in the third fiscal year.

(3) The non-Federal share provided by a public agency or a nonprofit or community-based organization may be provided in cash, or in kind, fairly evaluated, and may include the use of plant, equipment, and services.

(42 U.S.C. 4995)

TITLE II—OLDER AMERICAN VOLUNTEER PROGRAMS

STATEMENT OF PURPOSES

Sec. 200. It is the purpose of—

(1) this title to provide for Older American Volunteer Programs, comprised of the retired senior volunteer program, the foster grandparent program, and the senior companion program, that empower older individuals to contribute to their communities through volunteer service, enhance the lives of the volunteers and those whom they serve, and provide communities with valuable services;

(2) part A, the retired senior volunteer program, to utilize the vast talents of older individuals willing to share their experiences, abilities, and skills in responding to a wide variety of community needs;

(3) part B, the foster grandparent program, to afford low-income older individuals an opportunity to provide supportive, individualized services to children with exceptional or special needs; and

(4) part C, the senior companion program, to afford low-income older individuals the opportunity to provide personal assistance and companionship to other older individuals through volunteer service.

(42 U.S.C. 5000)

Part A—Retired Senior Volunteer Program

GRANTS AND CONTRACTS FOR VOLUNTEER SERVICE PROJECTS

Sec. 201. (a) In order to help retired persons to avail themselves of opportunities for volunteer service in their community, the Director is authorized to make grants to State agencies (established or designated pursuant to section 305(a)(1) of the Older Americans Act of 1965, as amended (42 U.S.C. 3025(a)(1))) or grants to or contracts with other public and nonprofit private agencies and organizations to pay part or all of the costs for the development or operation, or both, of volunteer service projects under this section, if the Director determines, in accordance with regulations the Director shall prescribe, that—

(1) volunteers will not be reimbursed for other than transportation, meals, and other out-of-pocket expenses incident to the provision of services under this part;

(2) only individuals aged sixty or over will be enrolled as volunteers to provide services under this part (except for administrative purposes), and such services will be performed in the community where such individuals reside or in nearby communities either (A) on publicly owned and operated facilities or projects, or (B) on local projects sponsored by private nonprofit organizations (other than political parties), other than projects involving the construction, operation, or maintenance of so much of any facility used or to be used for sectarian instruction or as a place for religious worship;

(3) the project includes such short-term training as may be necessary to make the most effective use of the skills and talents of participating volunteers and individuals, and provide for the payment of the reasonable expenses of such volunteers while undergoing such training; and

(4) the project is being established and will be carried out with the advice of persons competent in the field of service involved, and or persons with interest in and knowledge of the needs of older persons.

(b) In no event shall the required proportion of the local contribution (including in-kind contributions) for a grant or contract made under this section be more than 10 per centum in the first year of assistance under this section, 20 per centum in the second such year, 30 per centum in any subsequent such years: Provided, however, That the Director may make exceptions in cases of demonstrated need, determined (in accordance with regulations which the Director shall prescribe) on the basis of the financial capability of a particular recipient of assistance under this section, to permit a lesser local contribution proportion than any required contribution proportion established by the Director in generally applicable regulations.

(c) The Director shall not award any grant or contract under this part for a project in any State to any agency or organization unless, if such State has a State agency established or designated pursuant to section 305(a)(1) of the Older Americans Act of 1965, as amended (42 U.S.C. 3025(a)(1)), such agency itself is the recipient of the award or such agency has been afforded at least forty-five days in which to review the project application and make recommendations thereon.

(d) Notwithstanding any other provision of law, volunteer service under this part shall not be deemed employment for any purpose which the Director finds is not fully consistent with the provisions and in furtherance of the purpose of this part.

(42 U.S.C. 5001)

PART B—FOSTER GRANDPARENT PROGRAM

GRANTS AND CONTRACTS FOR VOLUNTEER SERVICE PROJECTS

SEC. 211. (a) The Director is authorized to make grants to or contracts with public and nonprofit private agencies and organizations to pay part or all of the cost of development and operation of projects (including direct payments to individuals serving under this part) designed for the purpose of providing opportunities for low-income persons aged sixty or over to provide supportive person-to-person services in health, education, welfare, and related settings to children having exceptional needs, including services by individuals serving as "foster grandparents" to children receiving care in hospitals, homes for dependent and neglected children, or other establishments providing care for children with special needs. The Director may approve assistance in excess of 90 per centum of the costs of the development and operation of such projects only if the Director determines, in accordance with regulations the Director shall prescribe establishing objective criteria, that such action is required in furtherance of the purpose of this section. Provision for such assistance shall be effective as of September 19, 1972. In the case of any project with respect to which, prior to such date, a grant or contract has been made under section 611(a) of the Older Americans Act of 1965, as amended (42 U.S.C. 3044(b) or with respect to any project under the Foster Grandparent program in effect prior to September 17, 1969, contributions in cash or in kind from the Bureau of Indian Affairs, Department of the Interior, toward the cost of the project may be counted as part of the cost thereof which is met from non-Federal sources.

(b)(1) Any public or private nonprofit agency or organization responsible for providing person-to-person services to a child in a project carried out under subsection (a) of this section shall have the exclusive authority to determine, pursuant to the provisions of paragraph (2) of this subsection—

(A) which children may receive supportive person-to-person services under such project; and

(B) the period of time during which such services shall be continued in the case of each individual child.

(2) In the event that such an agency or organization determines that it is in the best interests of a mentally retarded child receiving, and of a particular foster grandparent providing, services in such a project, such relationship may be continued after the child reaches the chronological age of 21: *Provided,* That such child was receiving such services prior to attaining the chronological age of 21. If the particular foster grandparent subject to the determination under this paragraph becomes unavailable to serve after such determination is made, the agency or organization may select another foster grandparent.

(3) Any determination made by a public or nonprofit private agency or organization under paragraphs (1) and (2) of this subsection shall be made through mutual agreement by all parties involved with respect to the provision of services to the child involved.

(c) For the purposes of this section, the terms "child" and "children" mean any individual or individuals who are less than 21 years of age.

(d) The Director, in accordance with regulations the Director shall prescribe, may provide to low-income persons serving as volunteers under this part, such allowances, stipends, and other support as the Director determines are necessary to carry out the purpose of this part. Any stipend or allowance provided under this subsection shall not be less than $2.20 per hour until October 1, 1990, $2.35 per hour during fiscal year 1991, and $2.50 per hour on and after October 1, 1992, except that (1) such stipend or allowance shall not be increased as a result of an amendment made to this sentence unless the funds appropriated for carrying out this part are sufficient to maintain for the fiscal year in question a number of participants to serve under this part at least equal to the number of such participants serving during the preceding fiscal year, and (2) in the event that sufficient appropriations for any fiscal year are not available to increase any such stipend or allowance provided to the minimum hourly rate specified in this sentence, the Director shall increase the stipend or allowance to such amount as appropriations for such year permit consistent with clause (1) of this exception.

(e) For purposes of this part, the terms "low-income person" and "person of low income" mean—

(1) any person whose income is not more than 125 per centum of the poverty line defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) and adjusted by the Director in the manner described in such section; and

(2) any person whose income is not more that 100 per centum of such poverty line, as so adjusted and determined by the Director after taking into consideration existing poverty guidelines as appropriate to local situations.

Persons described in paragraph (2) shall be given special consideration for participation in projects under this part.

(f)(1)(A) Except as provided in subparagraphs (B) and (C), individuals who are not low-income persons may serve as volunteers under this part, in accordance with such regulations as the Director shall issue, if such individuals serve without receiving any allowance, stipend, or other financial support under this part except reimbursement for transportation, meals, and out-of-pocket expenses incident to serving under this part.

(B) The regulations issued by the Director to carry out this part (other than any regulations relating to allowances, stipends, and other financial support authorized by subsection (d) to be paid under this part to low-income persons) shall apply to all volunteers under this part, without regard to whether such volunteers are eligible to receive a stipend under subsection (d).

(C) Individuals who are not low-income persons may not serve as volunteers under this part in any community in which there are volunteers serving under part A of this title unless such individuals have been referred previously for possible placement as volunteers under part A and such placement did not occur.

(2)(A) Except as provided in subparagraph (B), each recipient of a grant or contract to carry out a project under this part shall give equal treatment to all volunteers who participate in such project, without regard to whether such volunteers are eligible to receive a stipend under subsection (d).

(B) An individual who is not a low-income person may not become a volunteer under this part if allowing such individual to become a volunteer under this part would prevent a low-income individual from becoming a volunteer under this part or would displace a low-income person from being such a volunteer.

(3)[1] The Director may not take into consideration or require as a condition of receiving a grant or contract to carry out a project under this part, any applicant for such grant or contract—

(A) to accept or recruit individuals who are not low-income persons to serve as volunteers under this part; or

(B) to solicit locally generated contributions, in cash or in kind, to support such individuals.

The Director may not coerce any applicant for, or recipient of, such grant or contract to engage in conduct described in subparagraph (A) or (B).

(4) Funds appropriated to carry out this part may not be used to pay any cost, including any administrative cost, incurred in connection with volunteers under this part who do not receive a stipend under subsection (d). Such cost incurred with respect to a volunteer may be paid with—

(A) funds received by the Director as unrestricted gifts;

(B) funds received by the Director as gifts to pay such cost;

(C) funds contributed by such volunteer; or

(D) locally generated contributions in excess of the amount required to be contributed under subsection (a), in the discretion of the recipient of a grant or contract under such subsection.

(42 U.S.C. 5011)

CONDITIONS OF GRANTS AND CONTRACTS

Sec. 212. (a)(1) In carrying out this part, the Director shall insure that individuals receiving assistance in any project are older persons of low income who are no longer in the regular work force.

(2)(A) The Director shall award a grant or contract under this part for a project to be carried out over an area in a State more comprehensive than one community, to the State agency established or designated pursuant to section 305(a)(1) of the Older Americans Act of 1965, as amended (42 U.S.C. 3025(a)(1)), unless (i) the State has not established or designated such an agency; or (ii) such agency has been afforded at least 45 days to (I) review the project application made by a prospective grantee or contractor other than such agency for a project to be carried out in such State; and (II) make recommendations thereon. In the event that such an established or designated State agency is not awarded the grant or contract, any application approved for a project in such State shall contain or be supported by satisfactory assurances that the project has been developed, and will, to the extent feasible, be conducted in consultation with, or with the participation of, such agency.

(B) The Director shall award a grant or contract under this part for a project to be carried out entirely in a community served by a community action agency, to such agency unless such agency and the State agency established or designated pursuant to section 305(a)(1) of the Older Americans Act of 1965, as amended (42 U.S.C. 3025(a)(1)) have been afforded at least 45 days to (i) review the project application made by a prospective grantee or contractor other than either such agency for a project to be carried out in such community; and (ii) make recommendations thereon. In the event that such a community action agency or such an established or designated State agency is not awarded the grant or contract, any application approved for a project to be carried out entirely in such community shall contain or be supported by satisfactory assurances that the project has been developed, and will, to the extent feasible, be conducted, in consultation with, or with the participation of, such community action agency.

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[1] Section 7(a) of Public Law 99–551, approved October 27, 1987, provides as follows:

"(2) Section 211(f)(3) of the Domestic Volunteer Service Act of 1973, as added by paragraph (1), shall apply with respect to grants and contracts made under section 211(a) of such Act before the date of the enactment of this Act."

(b) The term "community action agency" as used in this section means an eligible entity as defined in section 673(1) of the Community Services Block Grant Act (42 U.S.C. 9902(1)).

(42 U.S.C. 5012)

PART C—SENIOR COMPANION PROGRAM

GRANTS AND CONTRACTS FOR VOLUNTEER SERVICE PROJECTS

SEC. 213. (a) The Director is authorized to make grants to or contracts with public and nonprofit private agencies and organizations to pay part or all of the cost of development and operation of projects (including direct payments to individuals serving under this part in the same manner as provided in section 211(a)) designed for the purpose of providing opportunities for low-income persons aged 60 or over to serve as "senior companions" to persons with exceptional needs. Senior companions may provide services designed to help older persons requiring long-term care, including services to persons receiving home health care, nursing care, home-delivered meals or other nutritional services; services designed to help persons deinstitutionalized from mental hospitals, nursing homes, and other institutions; and services designed to assist persons having developmental disabilities and other special needs for companionship.

(b) Subsections (d), (e), and (f) of section 211, and such other provisions of part B as the Director determines to be necessary, shall apply to this part, except that for purposes of this part any reference in such subsections and such provisions to part B shall be deemed to be a reference to this part.

(c)(1) The Director is authorized to make grants or contracts after subsection (a) for senior companion projects to assist homebound elderly individuals to remain in their own homes and to enable institutionalized elderly individuals to return to home care settings.

(2)(A) The Director is authorized to recruit, subject to subparagraph (B), senior companion volunteer trainers who on the basis of experience (such as, doctors, nurses, home economists, social workers) will be used to train senior companion volunteers to participate in and monitor initial and continuing needs assessments and appropriate in-home services for senior companion volunteer recipients. The needs assessments and in-home services shall be coordinated with and supplement existing community based home health and long-term care systems. The Director may also use senior companion volunteer leaders, who on the basis of experience as volunteers, special skills, and demonstrated leadership abilities may spend time in the program (in addition to their regular assignment) to assist newer senior companion volunteers in performing their assignments and in coordinating activities of such volunteers.

(B) Senior companion volunteer trainers recruited under subparagraph (A) of this paragraph shall not be paid stipends.

(3) The Director shall conduct an evaluation of the impact of the projects assisted under this subsection based upon a sample survey of projects so assisted. In the third year of such study, the Director shall prepare and submit a report to the Congress. Such evaluation study shall include information on—

(A) the extent to which costs of providing long-term care are reduced by using senior companion volunteers who receive stipends in the provision of long-term care services;

(B) the effectiveness of the provision of long-term care with the use of volunteers;

(C) the extent to which health care needs and health related costs of the senior companion volunteers themselves are affected because of their involvement in the project;

(D) the extent of coordination with other Federal and State efforts aimed at enabling older individuals to receive care in their own homes; and

(E) the effectiveness of using senior companion volunteer leaders and of involving senior companion volunteers based on the training of the volunteer leaders and volunteers.

(42 U.S.C. 5013)

PART D—GENERAL PROVISIONS

PROMOTION OF OLDER AMERICAN VOLUNTEER PROGRAMS

SEC. 221. (a) In carrying out this title, the Director shall consult with the Departments of Labor and Health and Human Services, and any other Federal agencies administering relevant programs with a view to achieving optimal coordination with such other programs, and shall promote the coordination of projects under this title with other public or private programs or projects carried out at State and local levels. Such Federal agencies shall cooperate with the Director in disseminating information about the availability of assistance under this title and in promoting the identification and interest of low-income and other older persons whose services may be utilized in projects under this title.[1]

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[1] Section 205(c) of Public Law 94–135, supra, provides that:

"(c)(1) In order to provide maximum coordination between programs carried out under title III and title VII of the Older Americans Act of 1965 (42 U.S.C. 3021 et seq.; 42 U.S.C. 3045 et seq.) and national older American volunteer programs carried out under title II of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5001 et seq.), and in order to enhance the effectiveness of the support provided to such national older American volunteer programs by the ACTION Agency, the Director of the ACTION Agency shall designate an aging resource specialist with respect to programs carried out in each State under title II of the Domestic Volunteer Service Act of 1973.

"(2)(A) Each aging resource specialist designated under paragraph (1) shall be qualified to serve in such capacity by appropriate experience and training, and shall be stationed in a State office of the ACTION Agency.

"(B) The primary responsibility of each aging resource specialist shall be—

"(i) to support programs carried out under title II of the Domestic Volunteer Service Act of 1973 in any State or other jurisdiction served by the State office involved; and

"(ii) to seek to coordinate such programs with programs carried out under title III and title VII of the Older Americans Act of 1965 in any such State or other jurisdiction.

Continued

(b)(1) In carrying out this title, the Director shall encourage and facilitate the efforts of private organizations to promote the programs established in parts A, B, and C and the involvement of older individuals as volunteers in such programs.

(2) The Director shall take appropriate actions to ensure that special efforts are made to publicize the programs established in parts A, B, and C, in order to facilitate recruitment efforts, to encourage greater participation of volunteers, and to emphasize the value of volunteering to the health and well-being of volunteers and the communities of such volunteers. Such actions shall include informing recipients of grants and contracts under this title of all informational materials available from the Director.

(3) From funds appropriated under section 502, the Director shall expend not less than $250,000 in each fiscal year to carry out paragraph (2).

(42 U.S.C. 5021)

PAYMENTS

SEC. 222. Payments under this title pursuant to a grant or contract may be made (after necessary adjustment, in the case of grants, on account of previoulsy made overpayments or underpayments) in advance or by way of reimbursement, in such installments and on such conditions, as the Director may determine.

(42 U.S.C. 5022)

MINORITY GROUP PARTICIPATION

SEC. 223. The Director shall take appropriate steps to insure that special efforts are made to recruit, select, and assign qualified individuals sixty years and older from minority groups to serve as volunteers under this title.

(42 U.S.C. 5023)

USE OF LOCALLY GENERATED CONTRIBUTIONS IN OLDER AMERICAN VOLUNTEER PROGRAMS

SEC. 224. Whenever locally generated contributions made to volunteer projects for older Americans under this title are in excess of the amount required by the Director, the Director may not restrict the manner in which contributions are expended if expenditures from locally generated contributions are not inconsistent with the provisions of this Act.

(42 U.S.C. 5024)

PROGRAMS OF NATIONAL SIGNIFICANCE

SEC. 225. (a)(1) With not less than one-third of the funds made available under subsection (d) in each fiscal year, the Director shall make grants under the programs authorized in parts A, B, and C

"(3) For purposes of this subsection—

"(A) the term 'ACTION Agency' means the ACTION Agency established by section 401 of the Act (42 U.S.C. 5041);

"(B) the term 'primary responsibility' means the devotion of more than one-half of regular working hours to the performance of duties described in paragraph (2)(B); and

"(C) the term 'State' means the several States, the District of Columbia, the Virgin Islands, Puerto Rico, Guam, American Samoa, and the Trust Territory of the Pacific Islands."

to support programs that address national problems of local concern.

(2) Except as provided in paragraph (3), the Director may make such grants—

(A) under the program authorized in part A, to support programs that address the national problems specified in subsection (b);

(B) under the program authorized in part B, to support programs that address the national problems specified in subsection (b), other than paragraph (10) of such subsection; and

(C) under the program authorized in part C, to support programs that address the national problems referred to in paragraphs (1), (2), (5), (6), and (10) of subsection (b).

(3) Each program for which a grant is received under this subsection shall be carried out in accordance with the requirements applicable to the program under part A, B, or C under which the program supported by such grant is to be carried out.

(b) The Director shall make grants under subsection (a) to support one or more of the following programs to address problems that concern the Nation:

(1) Programs that assist individuals with chronic and debilitating illnesses, such as acquired immune deficiency syndrome.

(2) Programs designed to decrease drug and alcohol abuse.

(3) Programs that work with teenage parents.

(4) Programs that match volunteer mentors with youth who need guidance.

(5) Programs that provide adult and school-based literacy assistance.

(6) Programs that provide respite care, including care for frail elderly individuals and for disabled or chronically ill children living at home.

(7) Programs that provide before- and after-school activities that are sponsored by organizations, such as libraries, that serve children of working parents.

(8) Programs that work with boarder babies.

(9) Programs that serve children who are enrolled in child care programs, giving priority to such programs that serve children with special needs.

(10) Programs that provide care to developmentally disabled adults who reside at home and in community-based settings, including programs that, when appropriate, involve older developmentally disabled individuals as volunteers under this title.

(11) Programs that provide volunteer tutors to assist educationally disadvantaged children, on a one-to-one basis, to improve the basic skills of such children.

(c)(1) In order for an applicant to be eligible to receive a grant under subsection (a), such applicant shall demonstrate to the Director that such grant will be used to increase the total number of volunteers supported by such applicant under this title.

(2) Funds made available under subsection (d) shall be used to supplement and not supplant the number of volunteers engaged in activities under parts A, B, and C (without regard to this section)

addressing the problem for which such funds are awarded unless such sums are an extension of funds previously provided under this section.

(d)(1) Except as provided in paragraph (2), in each fiscal year there shall be available to the Director to make grants under subsection (a) not more than—

(A) $6,000,000 from funds appropriated under section 502(a);

(B) $9,000,000 from funds appropriated under section 502(b); and

(C) $9,000,000 from funds appropriated under section 502(c).

(2) No funds shall be available to the Director to make grants under subsection (a) for a fiscal year unless the amounts appropriated under subsections (a), (b), and (c) of section 502 and available for such fiscal year to carry out parts A, B, and C (without regard to this section) are sufficient to maintain the number of projects and volunteers funded under parts A, B, and C, respectively, in the preceding fiscal year.

(e) The Director shall disseminate information on grants that may be made under subsection (a) to field personnel of the ACTION Agency and to community volunteer organizations that request such information.

(42 U.S.C. 5025)

ADJUSTMENTS TO FEDERAL FINANCIAL ASSISTANCE

SEC. 226. (a)(1)(A) In determining the amount of Federal financial assistance to be provided under this title to applicants, the Director shall consider the impact of changes in the Consumer Price Index For All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor on the administrative costs of operating the projects for which such assistance will be provided.

(B) The Director shall, to the fullest extent practicable, make appropriate adjustments in the amount referred to in subparagraph (A) to ensure the effective administration of such projects.

(2) The Director shall take reasonable actions to inform applicants for such assistance that such adjustments may be available.

(b)(1) The Director shall submit annually, to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report on the extent to which adjustments are made under subsection (a).

(2) With respect to each of parts A, B, and C, the Director shall include in such report—

(A) a summary of the number of, and purposes for which, such adjustments are requested by the recipients of grants and contracts under parts A, B, and C, respectively;

(B) a description of the extent that such requests are accommodated; and

(C) a statement explaining the decisions made by the Director with respect to the requested adjustments.

(42 U.S.C. 5026)

MULTIYEAR GRANTS OR CONTRACTS

SEC. 227. (a)(1) Subject to paragraph (2) and the availability of funds, the Director may make a grant or enter into a contract under part A, B, or C for a period not to exceed 3 years. Each applicant who receives a grant, or enters into a contract, under such part for a period exceeding 1 year shall comply with such regulations as the Director may issue to require such applicant—

(A) to demonstrate that such applicant is in compliance with such part and with the terms and conditions of such grant or contract; and

(B) to provide information to update the application submitted to obtain such grant or contract.

(2) If the amount appropriated for any fiscal year to carry out part A, B, or C in a period during which multiyear grants or contracts are in effect under such part is less than the amount appropriated to carry out such part in the first fiscal year in such period, then the amounts payable under all such grants and contracts in effect in such period under such part shall be reduced pro rata.

(b) The Director shall require each applicant for a multiyear grant or contract under this section, to document or describe in the application any meaningful administrative savings that will result from such multiyear grant or contract.

(c) If an applicant does not receive a multiyear grant or contract under this section, the Director shall consider such applicant for a single-year grant or contract.

(d) If the Director approves an application for a contract or grant to carry out a project for a multiyear period as referred to in subsection (a), the Director shall ensure that such project shall be treated in the same manner as a single-year contract or grant with respect to—

(1) the overall level of funding for such project;

(2) any adjustments to Federal financial assistance that may be available under section 226; and

(3) the renewal of funding on the expiration of the term of such contract or grant.

(42 U.S.C. 5027)

[TITLE III—Repealed]

TITLE IV—ADMINISTRATION AND COORDINATION

ESTABLISHMENT OF AGENCY

SEC. 401. There is hereby established in the executive branch of the Government an agency to be known as the ACTION Agency in order to provide a focal point for volunteerism at the national, State, and local level. Such Agency shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code. There shall also be in such agency a Deputy Director who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code. The Deputy Director shall perform such functions as the Director shall from time to time prescribe, and shall act as Director of the ACTION Agency during the absence or disability of the Director. There shall also be in such agency one Associate Director who shall be appointed by the President with the advice and consent of the Senate, and shall be compensated at the rate provided for level V of the Executive Schedule under section 5316 of title 5, United States Code. Such Associate Director shall be designated "Associate Director for Domestic and Anti-Poverty Operations" and shall carry out operational responsibility for all programs authorized under this Act. There shall also be in such agency two Assistant Directors, each of whom shall be appointed by the Director, and who shall report directly to the Associate Director for Domestic and Anti-Poverty Operations. One such Assistant Director shall be primarily responsible for VISTA and other antipoverty programs under title I of this Act, and one such Assistant Director shall be primarily responsible for the Older American Volunteer Programs under title II of this Act. There shall also be in such agency three individuals who shall report directly to the Assistant Director who is primarily responsible for the Older American Volunteer Programs under title II of this Act. Each of such individuals shall be primarily responsible for part A, B, or C of such title.

(42 U.S.C. 5041)

AUTHORITY OF THE DIRECTOR

SEC. 402. In addition to the authority conferred upon him by other sections of this Act, the Director is authorized to—

(1) appoint in accordance with the Civil Service laws such personnel as may be necessary to enable the ACTION Agency to carry out its functions, and, except as otherwise provided herein, fix the compensation of such personnel in accordance with chapter 51 of title 5, United States Code except that the number of schedule C employees, individuals employed on a temporary basis at GS–8 or higher, experts, and consultants shall at no time exceed 8.5 per centum of the total number of individuals employed by the ACTION Agency;

(2)(A) employ experts and consultants or organizations thereof as authorized by section 3109 of title 5, United States Code, except that no individual may be employed under the authority of this subsection for more than one hundred days in any fiscal year; (B) compensate individuals so employed at rates not in excess of the daily equivalent of the rate payable to a GS–18 employee under section 5332 of such title, including travel-time; (C) allow such individuals, while away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of such title for persons in the Government service employed intermittently, while so employed; and (D) annually renew contracts for such employment under this clause;

(3) with the approval of the President, arrange with and reimburse the heads of other Federal agencies for the performance of any of the provisions of this Act and, as necessary or

appropriate, delegate any of his functions under this Act and authorize the redelegation thereof subject to provisions to assure the maximum possible liaison between the ACTION Agency and such other agencies at all operating levels, which shall include the furnishing of complete operational information by such other agencies to the ACTION Agency and the furnishing of such information by the ACTION Agency to such other agencies;

(4) with their consent, utilize the services and facilities of Federal agencies without reimbursement, and, with the consent of any State or a political subdivision of a State, accept and utilize the services and facilities of the agencies of such State or subdivisions without reimbursement;

(5) accept in the name of the ACTION Agency, and employ or dispose of in furtherance of the purposes of this Act, or of any title thereof, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise;

(6) accept voluntary and uncompensated services;

(7) allocate and expend, or transfer to other Federal agencies for expenditure, funds made available under this Act as the Director deems necessary to carry out the provisions hereof, including expenditure for construction, repairs, and capital improvements;

(8) disseminate, without regard to the provisions of section 3204 of title 39, United States Code, data and information, in such form as he shall deem appropriate to public agencies, private organizations, and the general public;

(9) adopt an official seal, which shall be judicially noticed;

(10) collect or compromise all obligations to or held by him and all legal or equitable rights accruing to him in connection with the payment of obligations in accordance with Federal Claims Collection Act of 1966 (31 U.S.C. 951–53);

(11) expend funds made available for purposes of this Act as follows: (A) for printing and binding, in accordance with applicable law and regulations; and (B) without regard to any other law or regulation, for rent of buildings and space in buildings and for repair, alteration, and improvement of buildings and space in buildings rented by him; but the Director shall not utilize the authority contained in this subclause (B)—

> (i) except when necessary to obtain an item, service, or facility, which is required in the proper administration of this Act, and which otherwise could not be obtained, or could not be obtained in the quantity or quality needed, or at the time, in the form, or under the conditions in which, it is needed, and
>
> (ii) prior to having given written notification to the Administrator of General Services (if the exercise of such authority would affect an activity which otherwise would be under the jurisdiction of the General Services Administration) of his intention to exercise such authority, the item, service, or facility with respect to which such authority is proposed to be exercised, and the reasons and justifications for the exercise of such authority.

(12) notwithstanding any other provision of law, make grants to or contracts with Federal or other public departments or agencies and private nonprofit organizations for the assignment or referral of volunteers under this Act (except as provided in section 108) which may provide that the agency or organization shall pay all or a part of the costs of the program;

(13) establish such policies, standards, criteria, and procedures, prescribe such rules and regulations, enter into such contracts and agreements with public agencies and private organization and persons, and make such payments (in lump sum or installments, and in advance or by way of reimbursement, and in the case of grants otherwise authorized under this Act, with necessary adjustments on account of overpayments and underpayments) as are necessary or appropriate to carry out the provisions of this Act; and

(14) generally perform such functions and take such steps, consistent with the purposes and provisions of this Act, as he deems necessary or appropriate to carry out the provisions of this Act.

(42 U.S.C. 5042)

POLITICAL ACTIVITIES

SEC. 403. (a) No part of any funds appropriated to carry out this Act, or any program administered by the ACTION Agency, shall be used to finance, directly or indirectly, and activity designed to influence the outcome of any election to Federal office, or the outcome of any election to any State or local public office, or any voter registration activity, or to pay the salary of any officer or employee of the ACTION Agency, who, in an official capacity as such an officer or employee, engages in any such activity. As used in this section, the term "election" has the same meaning (when referring to an election for Federal office) given such term by section 301(1) of the Federal Election Campaign Act of 1971 (Public Law 92-225), and the term "Federal office" has the same meaning given such term by section 301(3) of such Act.

(b)(1) Programs assisted under this Act shall not be carried on in a manner involving the use of funds, the provision of services, or the employment or assignment of personnel in a manner supporting or resulting in the identification of such programs with (A) any partisan or nonpartisan political activity or any other political activity associated with a candidate, or contending faction or group, in an election for public or party office, (B) any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election, or (C) any voter registration activity.

(2) No funds appropriated to carry out this Act shall be used by any program assisted under this Act in any activity for the purpose of influencing the passage of defeat of legislation or proposals by initiative petition, except—

(A) in any case in which a legislative body, a committee of a legislative body, or a member of a legislative body requests any volunteer in, or employee of, such a program to draft, review, or testify regarding measures or to make representations to such legislative body, committee, or member; or

(B) in connection with an authorization or appropriations measure directly affecting the operation of the program.

(c) The Director, after consultation with the Office of Personnel Management, shall issue rules and regulations to provide for the enforcement of this section, which shall include provisions for summary suspension of assistance for no more than thirty days until notice and an opportunity to be heard can be provided or other action necessary to permit enforcement on an emergency basis.

(42 U.S.C. 5043)

SPECIAL LIMITATIONS

SEC. 404. (a) The Director shall prescribe regulations and shall carry out the provisions of this Act so as to assure that the service of volunteers assigned, referred, or serving pursuant to grants, contracts, or agreements made under this Act is limited to activities which would not otherwise be performed by employed workers and which will not supplant the hiring of or result in the displacement of employed workers, or impair existing contracts for service.

(b) All support, including transportation provided to volunteers under this Act, shall be furnished at the lowest possible costs consistent with the effective operation of volunteer programs.

(c) No agency or organization to which volunteers are assigned hereunder, or which operates or supervises any voluntary program hereunder, shall request or receive any compensation for services of volunteers supervised by such agency or organization.

(d) No funds authorized to be appropriated herein shall be directly or indirectly utilized to finance labor or anti-labor organization or related activity.

(e) Persons serving as volunteers under this Act shall provide such information concerning their qualifications, including their ability to perform their assigned tasks, and their integrity, as the Director shall prescribe and shall be subject to such procedures for selection and approval as the Director determines are necessary to carry out the purposes of this Act. The Director may establish such special procedures for the recruitment, selection, training, and assignment of low-income residents of the area to be served by a program under this Act who wish to become volunteers as the Director determines will further the purposes of this Act.

(f) Notwithstanding any other provision of law, the Director shall assign or delegate any substantial responsibility for carrying out programs under this Act only to persons appointed or employed pursuant to clauses (1) and (2) of section 402, and persons assigned or delegated such substantial responsibilities on the effective date of this Act and who are receiving compensation in accordance with provisions of law other than the applicable provisions of title 5, United States Code, on such date shall, by operation of law on such date, be assigned a grade level pursuant to such latter provisions so as to fix the compensation of such persons under such authority at no less than their compensation rate on the day preceding such date.

(g)(1) Notwithstanding any other provision of law except as may be provided expressly in limitation of this subsection, payments to volunteers under this Act shall not in any way reduce or eliminate the level of or eligibility for assistance or services any such volunteers may be receiving under any governmental program, except that this paragraph shall not apply in the case of such payments when the Director determines that the value of all such payments, adjusted to reflect the number of hours such volunteers are serving, is equivalent to or greater than the minimum wage then in effect under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) or the minimum wage, under the laws of the State where such volunteers are serving, whichever is the greater.

(2) Notwithstanding any other provision of law, a person enrolled for full-time service as a volunteer under title I of this Act who was otherwise entitled to receive assistance or services under any governmental program prior to such volunteer's enrollment shall not be denied such assistance or services because of such volunteer's failure or refusal to register for, seek, or accept employment or training during the period of such service.

(42 U.S.C. 5044)

[Sec. 405 Repealed] [1]

LABOR STANDARDS

SEC. 406. All laborers and mechanics employed by contractors or subcontractors in the construction, alteration or repair, including painting and decorating of projects, buildings and works which are federally assisted under this Act shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a–5). The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Number 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and in section 2 of the Act of June 1, 1934, as amended (48 Stat. 948, ch. 492, as amended; 40 U.S.C. 276c).

(42 U.S.C. 5046)

SEC. 407. REPORTS.

Not later than 60 days after the beginning of each fiscal year, the Director shall prepare and submit to the appropriate committees of Congress a report that shall include—

(1) the annual recruitment plan developed under section 103(c)(4);

(2) a description of the activities carried out under section 103(b) during the preceding fiscal year, including a specification of the total number of—

(A) individuals who applied for service as a volunteer under this part;

(B) applicants approved for such service;

(C) approved applicants provided an assignment as a volunteer under section 103(b); and

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[1] Section 405 was repealed by section 20 of Public Law 98–288, effective January 1, 1986.

(D) volunteers assigned to projects and programs that were outside the original home communities of such volunteers;

(3) a description of efforts undertaken by the Director during the preceding fiscal year to involve individuals, who have formerly served as volunteers under this part, in the activities authorized under section 103(c);

(4) a description of the number of individuals referred to in paragraph (3) that were involved in the activities referred to in paragraph (3) and the manner of involvement of such individuals; and

(5) a specification of the number and location of employees of the ACTION Agency designated by the Director to assist in carrying out the duties described in subsections (b) and (c) of section 103 during the preceding fiscal year.

(42 U.S.C. 5047)

JOINT FUNDING

SEC. 408. Pursuant to regulations prescribed by the President, and to the extent consistent with the other provisions of this Act, where funds are provided for a single project by more than one Federal agency to an agency or organization assisted under this Act, the Federal agency principally involved may be designated to act for all in administering the funds provided, and, notwithstanding any other provision of law, in such cases, a single non-Federal share requirement may be established according to the proportion of funds advanced by each agency. When the principal agency involved is the ACTION Agency, it may waive any grant or contract requirement (as defined by such regulations) under or pursuant to any law other than this Act, which requirement is inconsistent with the similar requirements under or pursuant to this Act.

(42 U.S.C. 5048)

PROHIBITION OF FEDERAL CONTROL

SEC. 409. Nothing contained in this Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any education institution or school system.

(42 U.S.C. 5049)

COORDINATION WITH OTHER PROGRAMS

SEC. 410. The Director shall take necessary steps to coordinate volunteer programs authorized under this Act with one another, with community action programs, and with other related Federal, State, and local programs. The Director shall also consult with the heads of other Federal, State, and local agencies responsible for programs related to the purposes of this Act with a view to encouraging greater use of volunteer services in those programs and establishing in connection with them systematic procedures for the recruitment, referral, or necessary preservice orientation or training of volunteers serving pursuant to this Act. The Director, in consultation with the Director of the Office of Personnel Management and the Secretaries of Labor, Commerce, and the Treasury and officials of other appropriate departments and agencies, shall take all appropriate steps to encourage State and local governments, charitable and service organizations, and private employers (1) to take into account experience in volunteer work in the consideration of applicants for employment; and (2) to make provisions for the listing and description of volunteer work on all employment application forms.

(42 U.S.C. 5050)

PROHIBITION

SEC. 411. In order to assure that existing Federal agencies are used to the fullest extent possible in carrying out the purposes of this Act, no funds appropriated to carry out this Act shall be used to establish any new department or office when the intended function is being performed by an existing department or office.

(42 U.S.C. 5051)

NOTICE AND HEARING PROCEDURES FOR SUSPENSION AND TERMINATION OF FINANCIAL ASSISTANCE

SEC. 412. (a) The Director is authorized, in accordance with the provisions of this section, to suspend further payments or to terminate payments under any contract or grant providing assistance under this Act, whenever the Director determines there is a material failure to comply with the applicable terms and conditions of any such grant or contract. The Director shall prescribe procedures to insure that—

(1) assistance under this Act shall not be suspended for failure to comply with applicable terms and conditions, except in emergency situations for thirty days;

(2) an application for refunding under this Act may not be denied unless the recipient has been given (A) notice at least 75 days before the denial of such application of the possibility of such denial and the grounds for any such denial, and (B) opportunity to show cause why such action should not be taken;

(3) in any case where an application for refunding is denied for failure to comply with the terms and conditions of the grant or contract award, the recipient shall be afforded an opportunity for an informal hearing before an impartial hearing officer, who has been agreed to by the recipient and the Agency; and

(4) assistance under this Act shall not be terminated for failure to comply with applicable terms and conditions unless the recipient has been afforded reasonable notice and opportunity for a full and fair hearing.

(b) In order to assure equal access to all recipients, such hearings or other meetings as may be necessary to fulfill the requirements of this section shall be held at locations convenient to the recipient agency.

(42 U.S.C. 5052)

[Sec. 413, Repealed.][1]

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[1] Section 413 was repealed by section 5(a) of P.L. 94–293.

DISTRIBUTION OF BENEFITS BETWEEN RURAL AND URBAN AREAS

SEC. 414. The Director shall adopt appropriate administrative measures to assure that the benefits of and services under this Act will be distributed equitably between residents of rural and urban areas.

(42 U.S.C. 5054)

APPLICATION OF FEDERAL LAW

SEC. 415. (a) Except as provided in subsections (b), (c), (d), and (e) of this section, volunteers under this Act shall not be deemed Federal employees and shall not be subject to the provisions of laws relating to Federal officers and employees and Federal employment.

(b) Individuals enrolled as volunteers for periods of full-time service, or, as the Director deems appropriate in accordance with regulations, for periods of part-time service of not less than 20 hours per week for not less than 26 consecutive weeks, under title I of this Act: shall, with respect to such service or training, (1) for the purposes of subchapter III of chapter 73 of title 5, United States Code, be deemed persons employed in the executive branch of the Federal Government, (2) for the purposes of the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.) and title II of the Social Security Act (42 U.S.C. 401 et seq.), be deemed employees of the United States, and any service performed by an individual as a volunteer (including training) shall be deemed to be performed in the employ of the United States, (3) for the purposes of the Federal Tort Claims provisions of title 28, United States Code, be deemed employees of the United States, (4) for the purposes of subchapter 1 of chapter 81 of title 5, United States Code (relative to compensation to Federal employees for work injuries), shall be deemed civil employees of the United States within the meaning of the term "employee" as defined in section 8101 of title 5, United States Code, and the provisions of that subchapter shall apply except as follows: (A) in computing compensation benefits for disability or death, the annual rate of pay of a volunteer enrolled for a period of full-time service under such title I shall be deemed to be that received under the entrance salary for a grade GS–7 employee, and the annual rate of pay of a volunteer enrolled for a period or part-time service under such title I shall be deemed to be such entry salary or an appropriate portion thereof as determined by the Director, and subsections (a) and (b) of section 8113 of title 5, United States Code, shall apply, and (B) compensation for disability shall not begin to accrue until the day following the date on which the injured volunteer is terminated, and (5) be deemed employees of the United States for the purposes of section 5584 of title 5, United States Code (and stipends and allowances paid under this Act shall be considered as pay for such purposes).

(c) Any period of service of a volunteer enrolled in a program for a period of service of at least one year under part A of title I of this Act, and any period of full-time service of a volunteer enrolled in a program for a period of service of at least one year under part B or C of title I of this Act, shall be credited in connection with subsequent employment in the same manner as a like period of civilian employment by the United States Government—

(1) for the purposes of any Act establishing a retirement system for civilian employees of any United States Government agency; and

(2) except as otherwise determined by the President, for the purposes of determining seniority, reduction in force, and layoff rights, leave entitlement, and other rights and privileges based upon length of service under the laws administered by the Office of Personnel Management, the Foreign Service Act of 1980, and every other Act establishing or governing terms and conditions of service of civilian employees of the United States Government: *Provided*, That service of a volunteer shall not be credited toward completion of any probationary or trial period or completion of any service requirement for career appointment.

(d) Volunteers serving in programs for periods of service of at least one year under part A of title I of this Act, and volunteers serving for such periods under title VIII of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2991–2994d), including those whose service was completed under such Act, who the Director determines, in accordance with regulations the Director shall prescribe, have successfully completed their periods of service, shall be eligible for appointment in the competitive service in the same manner as Peace Corps volunteers as prescribed in Executive Order Number 11103 (April 10, 1963).

(e) Notwithstanding any other provision of law, all references in any other law to persons serving as volunteers under title VIII of the Economic Opportunity Act of 1964, as amended, shall be deemed to be references to persons serving as full-time volunteers in a program of at least one year's duration under part A, B, or C of title I of this Act.

(f)(1) The remedy—

(A) against the United States provided by sections 1346(b) and 2672 of title 28, United States Code, or

(B) through proceedings for compensation or other benefits from the United States as provided by any other law, where the availability of such benefits precludes a remedy under section 1346(b) or 2672 of such title 28,

for damages for personal injury, including death, allegedly arising from malpractice or negligence of a physician, dentist, podiatrist, optometrist, nurse, physician assistant, expanded-function dental auxiliary, pharmacist, or paramedical (for example, medical and dental technicians, nursing assistants, and therapists) or other supporting personnel in furnishing medical care or treatment while in the exercise of such person's duties as a volunteer enrolled under title I of this Act shall be exclusive of any other civil action or proceeding by reason of the same subject matter against such person (or such person's estate) whose action or omission gave rise to such claim.

(2) The Attorney General of the United States shall defend any civil action or proceeding brought in any court against any person referred to in paragraph (1) of this subsection (or such person's estate) for any such damage or injury. Any such person against

whom such civil action or proceeding is brought shall deliver, within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon such person or an attested true copy thereof to such person's immediate supervisor or to whomever is designated by the Director to receive such papers, and such person shall promptly furnish copies of the pleading and process therein to the United States attorney for the district embracing the place wherein the proceeding is brought and to the Attorney General.

(3) Upon a certification by the Attorney General that the defendant was acting in the scope of such person's volunteer assignment at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending and the proceeding deemed a tort action brought against the United States under the provisions of title 28, United States Code, and all references thereto. After removal the United States shall have available all defenses to which it would have been entitled if the action had originally been commenced against the United States. Should a district court of the United States determine on a hearing on a motion to remand held before a trial on the merits that the volunteer whose act or omission gave rise to the suit was not acting within the scope of such person's volunteer assignment, the case shall be remanded to the State court.

(4) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28, United States Code, and with the same effect.

(42 U.S.C. 5055)

EVALUATION

SEC. 416. (a) The Director shall measure and evaluate the impact of all programs authorized by this Act (including the VISTA Literacy Corps which shall be evaluated as a separate program at least once every 3 years), their effectiveness in achieving stated goals in general, and in relation to their cost, their impact on related programs, and their structure and mechanisms for delivery of services. Each program shall be evaluated at least once every three years. Evaluations shall be conducted by persons not immediately involved in the administration of the program or project evaluated. Such evaluation shall also measure and evaluate compliance with the equitable distribution requirement of section 414 of this Act.

(b) The Director shall develop and publish general standards for evaluation of program and project effectiveness in achieving the objectives of this Act. Reports submitted pursuant to section 407 shall describe the actions taken as a result of evaluations carried out under this section.

(c) In carrying out evaluations under this title, the Director shall whenever possible, arrange to obtain the opinions of program and project participants about the strengths and weaknesses of such programs and projects.

(d) The Director shall publish summaries of the results of evaluations of program and project impact and effectiveness no later than sixty days after the completion thereof.

(e) The Director shall take the necessary action to assure that all studies, evaluations, proposals, and data produced or developed with Federal funds shall become the property of the United States.

(f) Not later than December 31, 1988, the Director shall—

(1) evaluate the impact of ACTION Agency programs carried out under title II that relate to services that assist families caring for frail and disabled adult family members and shall include in such evaluation information on—

(A) the range and extent of service needs of, and the services provided to, family caregivers assisted by volunteers;

(B) the characteristics of volunteers and the skills, training, and supervision necessary to provide various types of volunteer assistance to family caregivers;

(C) administrative costs, including recruitment, training, and supervision costs, associated with volunteer assistance to family caregivers; and

(D) such other issues as may be relevant to provide services to assist family caregivers;

(2) evaluate the impact that volunteers who participate in programs under parts B and C of title II without receiving a stipend have on such programs and shall include in such evaluation—

(A) information on administrative costs associated with such volunteers;

(B) a comparison of the quality of services provided by such volunteers and the quality of services provided by volunteers who receive a stipend under such parts, including the rate of absenteeism and turnover; and

(C) a review of the effect that participation by volunteers who do not receive such stipend have on the administration of such programs; and

(3) submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report summarizing in detail the results of the evaluations made under paragraphs (1) and (2).

(g) The Director is authorized to use such sums as are required, but not to exceed 1 per centum of the funds appropriated under this Act, to conduct program and project evaluations (directly, or by grants or contracts) as required by this Act. In the case of allotments from such an appropriation, the amount available for such allotments (and the amount deemed appropriate therefor) shall be reduced accordingly.

(42 U.S.C. 5056)

NONDISCRIMINATION

SEC. 417. (a) The Director shall not provide financial assistance for any program under this Act unless the grant, contract, or agreement with respect to such program specifically provides that no person with responsibilities in the operation of such program will discriminate with respect to any such program because of race, creed, belief, color, national origin, sex, age, handicap, or political affiliation. For purposes of this subsection, and for purposes of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and the Age Discrimination Act of 1975 (Public Law 94–135, title III; 42 U.S.C. 6101 et seq.), any program, project or activity to which volunteers are assigned under this Act shall be deemed to be receiving Federal financial assistance.

(b) No person in the United States shall on the ground of sex be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in connection with, any program or activity receiving assistance under this Act. The Director shall enforce the provisions of the preceding sentence in accordance with section 602 of the Civil Rights Act of 1964 (42 U.S.C. 2000d–1). Section 603 of such Act shall apply with respect to any action taken by the Director to enforce such sentence. This section shall not be construed as affecting any other legal remedy that a person may have if that person is excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with any program or activity receiving assistance under this Act.

(c)(1) The Director shall apply the nondiscrimination policies and authorities set forth in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16), in title V of the Rehabilitation Act of 1973 (29 U.S.C. 791 et seq.), and in the Age Discrimination Act of 1975 (Public Law 94–135, title III; 42 U.S.C. 6101 et seq.) to applicants for enrollment for service as volunteers, and to volunteers serving, under this Act. Any remedies available to individuals under such laws, other than the right of appeal to the Civil Service Commission authorized by section 717 of the Civil Rights Act of 1964, and transferred to the Equal Employment Opportunity Commission by Reorganization Plan Number 1 of 1978, shall be available to such applicants or volunteers.

(2) No later than 90 days after the date of the enactment of the Domestic Volunteer Service Act Amendments of 1979, the Director, after consultation with the Equal Employment Opportunity Commission with regard to the application of the policies set forth in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16) and with the Interagency Coordinating Council, established by section 507 of the Rehabilitation Act of 1973 (29 U.S.C. 797), and the Interagency Committee on Handicapped Employees, established by section 501(a) of the Rehabilitation Act of 1973 (29 U.S.C. 791(a)), with regard to the application of the policies set forth in title V of the Rehabilitation Act of 1973 (29 U.S.C. 791 et seq.), and, not later than 90 days after the Secretary of Health and Human Services publishes final general regulations to carry out the Age Discrimination Act of 1975 (Public Law 94–135, title III; 42 U.S.C. 6101 et seq.), and after consultation with the Secretary with regard to the application of the policies set forth in such Act, shall prescribe regulations establishing the procedures for the application of such policies and the provision of such remedies so as to promote

the enrollment and service of persons as volunteers without regard to the discriminatory factors described in such laws.

(42 U.S.C. 5057)

ELIGIBILITY FOR OTHER BENEFITS

SEC. 418. Notwithstanding any other provision of law, no payment for supportive services or reimbursement of out-of-pocket expenses made to persons serving pursuant to title II of this Act shall be subject to any tax or charge or be treated as wages or compensation for the purposes of unemployment, temporary disability, retirement, public assistance, workers' compensation or similar benefit payments, or minimum wage laws. This section shall become effective with respect to all payments made after the effective date of this Act.

(42 U.S.C. 5058)

LEGAL EXPENSES

SEC. 419. Notwithstanding any other provision of law and pursuant to regulations which the Director shall prescribe, counsel may be employed and counsel fees, court costs, bail, and other expenses incidental to the defense of volunteers may be paid in judicial or administrative proceedings to which full-time volunteers (or part-time volunteers when such proceeding arises directly out of the performance of activities pursuant to this Act), serving under this Act have been made parties.

(42 U.S.C. 5059)

REQUIREMENTS FOR PRESCRIBING REGULATIONS

SEC. 420. (a) For purposes of this section—

(1) the term "regulation" means any rule, regulation, guideline, interpretation, order, or requirement of general applicability prescribed by the Director pursuant to this Act; and

(2) the term "Committees" means the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

(b) Regulations prescribed by the Director or by any other officer of the ACTION Agency, in connection with, or affecting, the administration of any program carried out under this Act shall contain, immediately following each substantive provision of such regulations, citations to the particular section or sections of statutory law or other legal authority upon which such provision is based.

(c)(1) No proposed regulation prescribed pursuant to this Act for the administration of any program carried out under this Act may take effect until 30 calendar days after it is published in the Federal Register.

(2) During the 30-day period before the date upon which such regulation is to be effective, the Director shall, in accordance with the provisions of section 553 of title 5, United States Code, offer any interested party an opportunity to make comment upon, and take exception to, such regulations and shall reconsider any such regulation upon which comment is made or to which exception is taken.

(d) Concurrently with the publication in the Federal Register of any final regulation, a copy of such final regulation shall be transmitted to the Speaker of the House of Representatives and the President of the Senate. No such final regulation may take effect until 45 calendar days after such transmission.

(e) Not later than 60 days after the date of the enactment of any Act affecting the administration of any program carried out under this Act, the Director shall submit to the Committees a schedule in accordance with which the Director has planned to prescribe final regulations implementing such Act or part of such Act. Such schedule shall provide that all such final regulations shall be prescribed not later than 180 days after the submission of such schedule. Except as is provided in the following sentence, all such final regulations shall be prescribed in accordance with such schedule. If the Director determines that, due to circumstances unforeseen at the time of the submission of any such schedule, the schedule submitted pursuant to this subsection cannot be met, the Director shall submit a notice of such determination, including a statement of the reasons therefor, to the Committees and shall submit a new schedule which shall then be considered, for the purposes of this subsection, as the schedule originally submitted in connection with the enactment of the Act involved.

(42 U.S.C. 5060)

DEFINITIONS

SEC. 421. For the purposes of this Act—

(1) the term "Director" means the Director of the ACTION Agency;

(2) the terms "United States" and "States" mean the several States, the District of Columbia, the Virgin Islands, Puerto Rico, Guam, the American Samoa and, for the purposes of title II of this Act, the Trust Territory of the Pacific Islands;

(3) the term "nonprofit" as applied to any agency, institution, or organization means an agency, institution, or organization which is, or is owned and operated by, one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual;

(4) the term "poor" or "low-income" persons, individuals, or volunteers means such individuals whose incomes fall at or below the poverty line as set forth in section 625 of the Economic Opportunity Act of 1964, as amended by Public Law 92–424 (42 U.S.C. 2971d): *Provided,* That in determining who is "poor" or "low-income", the Director shall take into consideration existing poverty guidelines as appropriate to local situations;

(5) the terms "public agencies or organizations" and "Federal, State, or local agencies" shall include any Indian tribe, band, nation, or other organized group or community (including any Alaskan native village or regional village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act) which is recognized by the United States or the State in which it resides as eligible for special

programs and services provided to Indians because of their status as Indians;

(6) the term "poverty line for a single individual" means such poverty line as established by the Director of the Office of Management and Budget in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)); and

(7) the term "boarder baby" means an infant described in section 103 of the Abandoned Infants Assistance Act of 1988 (Public Law 100–505; 42 U.S.C. 670 note).

(42 U.S.C. 5061)

AUDIT

SEC. 422. (a) Each recipient of Federal grants, subgrants, contracts, subcontracts, or loans entered into under this Act other than by formal advertising, and which are otherwise authorized by this Act, shall keep such records as the Director shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Director and the Comptroller General of the United States, or any of their duly authorized representatives, shall, until the expiration of three years after completion of the project or undertaking referred to in subsection (a) of this section, have access for the purpose of audit and examination to any books, documents, papers, and records of such recipients which in the opinion of the Director or the Comptroller General may be related or pertinent to the grants, contracts, subcontracts, subgrants, or loans referred to in subsection (a).

(42 U.S.C. 5062)

REDUCTION OF PAPERWORK

SEC. 423. In order to reduce unnecessary, duplicative, or disruptive demands for information, the Director, in consultation with other appropriate agencies and organizations, shall continually review and evaluate all requests for information made under this Act and take such action as may be necessary to reduce the paper work required under this Act. The Director shall request only such information as the Director deems essential to carry out the purposes and provisions of this Act.

(42 U.S.C. 5063)

REVIEW OF PROJECT RENEWALS

SEC. 424. If the executive authority of any State of local government submits to the director, not later than 30 days before the expiration of any contract or grant to carry out any project under this Act, a statement which objects to the renewal of such contract or grant, then the Director shall (1) review such statement and take it into account in determining whether to renew such contract or grant; and (2) submit to such executive authority a written statement of reasons regarding the Director's determination with respect to such renewal and specifically with respect to any objection so submitted.

(42 U.S.C. 5064)

TITLE V—AUTHORIZATION OF APPROPRIATIONS

NATIONAL VOLUNTEER ANTIPOVERTY PROGRAMS AUTHORIZATION

SEC. 501. (a)(1) There is authorized to be appropriated to carry out part A of title I (except section 109) $25,000,000 for fiscal year 1987, $26,000,000 for fiscal year 1988, $27,040,000 for fiscal year 1989, $30,600,000 for fiscal year 1990, $39,900,000 for fiscal year 1991, $47,800,000 for fiscal year 1992, and $56,000,000 for fiscal year 1993.

(2) There is authorized to be appropriated to carry out section 109(c) and to expand the number of VISTA Literacy Corps volunteers in literacy programs and projects under part A of title I of this Act $2,000,000 for fiscal year 1987, $3,000,000 for fiscal year 1988, $5,000,000 for fiscal year 1989, $6,050,000 for fiscal year 1990, $7,500,000 for fiscal year 1991, $9,000,000 for fiscal year 1992, and $10,500,000 for fiscal year 1993.

(3) There is authorized to be appropriated to carry out section 109(d) and to expand the number of VISTA Literacy Corps volunteers in literacy programs and projects under part A of title I of this Act $1,000,000 for each of the fiscal years 1987 through 1993.

(b) There is authorized to be appropriated to carry out part B of title I of this Act $1,800,000 for each of the fiscal years 1987, 1988, and 1989, $1,900,000 for fiscal year 1990, $2,000,000 for fiscal year 1991, $2,100,000 for fiscal year 1992, and $2,200,000 for fiscal year 1993.

(c)(1) There is authorized to be appropriated to carry out part C of title I of this Act (other than section 124(b)) $1,984,000 for each of the fiscal years 1987, 1988, and 1989, $1,100,000 for fiscal year 1990, $1,150,000 for fiscal year 1991, $1,200,000 for fiscal year 1992, and $1,275,000 for fiscal year 1993. In addition to the amounts authorized to be appropriated by the preceding sentence, there is authorized to be appropriated the aggregate sum of $5,500,000 for fiscal years 1987 and 1988 to be made available for drug abuse prevention. In addition to the amounts authorized to be appropriated by the preceding sentences, there are authorized to be appropriated for support of drug abuse prevention $4,000,000 in the fiscal year 1989, $5,000,000 for each of the fiscal years 1990 and 1991, $5,250,000 for fiscal year 1992, and $5,500,000 for fiscal year 1993. With respect to amounts appropriated for any fiscal year pursuant to the authorization contained in the preceding sentence, the Director—

(A) shall use not less than 15 percent and not more than 25 percent of such amounts for purposes of carrying out section 124(b); and

(B) shall ensure that not more than $500,000 is used for program support.

(2) Except as provided in paragraph (3) and in addition to the amounts authorized to be appropriated pursuant to paragraph (1) there is authorized to be appropriated $2,500,000 for the fiscal year

1992 and such sums as may be necessary for 1993 for Literacy Challenge Grants under section 125.

(3) No funds shall be appropriated pursuant to paragraph (2) in any fiscal year unless—

(A) the funds available in such fiscal year for the VISTA Program under part A of title I are sufficient to provide the years of volunteer service specified for such fiscal year under section 501(d)(1) for the VISTA Program; and

(B) the funds available in such fiscal year for the VISTA Literacy Corps under part A of title I are sufficient to provide at least the same years of volunteer service as were provided in the fiscal year preceding such fiscal year.

(d)(1) Of the amounts appropriated under this section for parts A, B, and C of title I (other than section 124(b)) and for sections 109(c) and 109(d), there shall first be available for part A of title I (other than section 109), an amount not less than the amount necessary to provide—

(A) 2,400 years of volunteer service in fiscal year 1987;
(B) 2,500 years of volunteer service in fiscal year 1988;
(C) 2,600 years of volunteer service in fiscal year 1989;
(D) 2,800 years of volunteer service in fiscal year 1990;
(E) 3,000 years of volunteer service in fiscal year 1991;
(F) 3,200 years of volunteer service in fiscal year 1992; and
(G) 3,400 years of volunteer service in fiscal year 1993.

(2) For purposes of paragraph (1), the term "volunteer service" shall include training and other support required under this Act for purposes of part A of title I.

(3) The requirement of paragraph (1)(A) shall not apply unless there is appropriated for title I for fiscal year 1984 an amount in addition to amounts available under Public Law 98–151.

(4)(A) In applying criteria with respect to meeting the number of years of volunteer service under paragraph (1) for a fiscal year, the Director may not exclude the costs of complying with section 105(b)(2) for each volunteer under this part.

(B) The minimum level of allowances for subsistence required under section 105(b)(2) to be provided to each volunteer under this part may not be reduced or limited in order to provide for the increase in the number of years of volunteer service specified in paragraph (1) for each of the fiscal years 1990 through 1993.

(C) If the Director determines that funds appropriated to carry out part A of title I are insufficient to provide for the years of volunteer service as required in paragraph (1), the Director shall, within a reasonable period of time in advance of the date on which such additional funds must be reallocated to satisfy the requirements of such subsection, notify the relevant authorizing and appropriating Committees of Congress. Funds shall be reallocated to part A of title I from amounts appropriated for part C of such title prior to the reallocation of funds appropriated for other parts.

(e) No part of the funds authorized under subsection (a) may be used to provide volunteers or assistance to any program or project authorized under part B or C of title I, or under title II, unless the program or project meets the antipoverty criteria of part A of title I.

(42 U.S.C. 5081)

OLDER AMERICANS VOLUNTEER PROGRAMS

SEC. 502. (a) There is authorized to be appropriated not less than the amount appropriated in the previous fiscal year and not more than $34,610,000 for fiscal year 1989, $39,900,000 for fiscal year 1990, $43,900,000 for fiscal year 1991, $48,300,000 for fiscal year 1992, and $53,100,000 for fiscal year 1993, for the purpose of carrying out programs under part A of title II of this Act.

(b) There is authorized to be appropriated not less than the amount appropriated in the previous fiscal year and not more than $64,900,000 for fiscal year 1989, $70,800,000 for fiscal year 1990, $80,900,000 for fiscal year 1991, $91,700,000 for fiscal year 1992, and $98,200,000 for fiscal year 1993, for the purpose of carrying out programs under part B of title II of this Act.

(c) There is authorized to be appropriated not less than the amount appropriated in the previous fiscal year and not more than $32,170,000 for fiscal year 1989, $36,600,000 for fiscal year 1990, $39,000,000 for fiscal year 1991, $44,700,000 for fiscal year 1992, and $48,700,000 for fiscal year 1993, for the purpose of carrying out part C of title II of this Act.

(42 U.S.C. 5082)

[Sec. 503. Repealed. P.L. 95–510, sec. 102(b) October 24, 1978, 92 Stat. 1781.]

ADMINISTRATION AND COORDINATION

SEC. 504. (a) There is authorized to be appropriated for the administration of this Act, as authorized in title IV of this Act, $25,312,000 for each of the fiscal years 1987, 1988, and 1989. In addition to the amounts authorized to be appropriated for the administration of this Act by the preceding sentence, there is authorized to be appropriated the aggregate sum of $500,000 for fiscal years 1987 and 1988 to be available for support of drug abuse prevention.

(b) For each of the fiscal years 1990 through 1993, there is authorized to be appropriated for the administration of this Act, as authorized in title IV, 20 percent of the total amount appropriated under sections 501 and 502.

(42 U.S.C. 5084)

AVAILABILITY OF APPROPRIATIONS

SEC. 505. Notwithstanding any other provision of law, unless enacted in express and specific limitation of the provisions of this section, funds appropriated for any fiscal year to carry out any program under this Act or any predecessor authority shall remain available, in accordance with the provisions of this Act, for obligation and expenditure until expended.

(42 U.S.C. 5085)

TITLE VI—AMENDMENTS TO OTHER LAWS AND REPEALERS

SUPERSEDENCE OF REORGANIZATION PLAN NUMBER 1 OF JULY 1, 1971

SEC. 601. (a) Sections 1, 2(a), 3, and 4 of the Reorganization Plan Number 1 of 1971 (July 1, 1971) are hereby superseded.

(b) The personnel, property, records, and unexpected balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions transferred to the Director of the ACTION Agency by sections 2(a) and 4 of such reorganization plan are hereby transferred to the ACTION Agency established by section 401. All grants, contracts, and other agreements awarded or entered into under the authority of such reorganization plan will be recognized under comparable provisions of this Act so that there is no disruption of ongoing activities for which there is continuing authority.

(c) All official actions taken by the Director of the ACTION Agency, the designee of the Director, or any other person under the authority of such reorganization plan which are in force on the effective date of this Act and for which there is continuing authority under the provisions of this Act, and the length of the period of service of volunteers serving or under going training under title VIII of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2991–2994d) on the effective date of this Act, shall continue in full force and effect until modified, superseded, or revoked by the Director.

(d) All references to ACTION, or the Director of ACTION in any statute, reorganization plan, Executive order, regulation, or other official document or proceeding shall, on and after the effective date of this Act, be deemed to refer to the ACTION Agency established by section 401 and the Director thereof.

(e) No suit, action or other proceeding, and no cause of action, by or against the agency known as ACTION created by such reorganization plan, or any action by any officer thereof acting in an official capacity, shall abate by reason of enactment of this Act.

(f) Persons appointed by the President, by and with the advice and consent of the Senate, to positions requiring such advice and consent under such reorganization plan may continue to serve in the same capacity in the ACTION Agency without the necessity of an additional appointment by the President or further such advice and consent by the Senate.

CREDITABLE SERVICE FOR CIVIL SERVICE RETIREMENT

SEC. 602. Section 8332(b)(7) of title 5, United States Code (relating to creditable service to civil service retirement), is amended by inserting a comma and "or a period of service of a full-time volunteer enrolled in a program of at least one year's duration under part A, B, or C of title I of the Domestic Volunteer Service Act of 1973 (—U.S.C.—)" after "Economic Opportunity Act of 1964".

REPEAL OF TITLE VIII OF THE ECONOMIC OPPORTUNITY ACT

SEC. 603. Title VIII of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2991–2994d), is hereby repealed.

REPEAL OF TITLE VI OF THE OLDER AMERICANS ACT

SEC. 604. (a) Title VI of the Older Americans Act of 1965, as amended (42 U.S.C. 3044–3044e), is hereby repealed.

(b) Section 908 of the Older Americans Comprehensive Services Amendments Act of 1973 (Public Law 93–29) is amended by striking out "1973," and "1974," and inserting in lieu thereof "1974," and "1975,", respectively.

TITLE VII—YOUTHBUILD PROJECTS

SEC. 701. STATEMENT OF PURPOSE.

It is the purpose of this title—

(1) to provide economically disadvantaged young adults with opportunities for meaningful service to their communities in helping to meet the housing needs of homeless individuals and low-income families; and

(2) to enable economically disadvantaged young adults to obtain the education and employment skills necessary to achieve economic self-sufficiency.

(42 U.S.C. 5091)

SEC. 702. AUTHORIZATION OF PROGRAM.

(a) FINANCIAL ASSISTANCE.—The Director of the ACTION Agency, in consultation with the Secretary of Labor, may provide grants to pay the Federal share of the cost of carrying out Youthbuild projects in accordance with this title.

(b) FEDERAL SHARE.—The Federal share under subsection (a) for each fiscal year shall not exceed 90 percent.

(42 U.S.C. 5091a)

SEC. 703. SERVICE IN CONSTRUCTION AND REHABILITATION PROJECTS.

(a) CONSTRUCTION AND REHABILITATION PROJECTS.—Eligible participants serving in Youthbuild projects receiving assistance under this title shall be employed in the construction, rehabilitation, or improvement of real property to be used for purposes of providing—

(1) residential rental housing that is occupied primarily by, or available for occupancy primarily by, homeless individuals and low-income families;

(2) transitional housing for homeless individuals;

(3) facilities for the provision of health, education, and other social services to low-income families, including—

(A) senior citizen centers;

(B) youth recreation centers;

(C) Head Start or child or adult day care centers; and

(D) community health centers.

(b) REQUIREMENTS FOR COMMUNITY FACILITIES.—No assistance may be provided under this title to support the construction, rehabilitation, or improvement of real property to be used to provide facilities described in subsection (a) unless the property—

(1) is used principally by or for the benefit of low-income families;

(2) is owned and occupied solely by public or private nonprofit entities; and

(3) is located in census tracts, or identifiable neighborhoods within census tracts, in which the median family income is not more than 80 percent of the median family income of the

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area in which the facility is located, as such median family income and area are determined for the purposes of assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

(c) RESTRICTION OF USE.—Participants under this title may not be employed in the construction, operation, or maintenance of any facility used for sectarian instruction or religious worship.

(42 U.S.C. 5091b)

SEC. 704. EDUCATION AND JOB TRAINING SERVICES.

(a) IN GENERAL.—Assistance provided under this title shall be used by each Youthbuild project to provide to participants the following:

(1) SERVICE OPPORTUNITIES.—Service opportunities in the construction or rehabilitation projects described in section 703, which shall be integrated with appropriate skills training and coordinated with, to the extent feasible, preapprenticeship and apprenticeship programs.

(2) EDUCATIONAL SERVICES.—Services and activities designed to meet the educational needs of participants, including—

(A) basic skills instruction and remedial education;

(B) bilingual education for individuals with limited English proficiency; and

(C) secondary education services and activities designed to lead to the attainment of a high school diploma or its equivalent.

(3) PERSONAL AND PEER SUPPORTS.—Counseling services and other activities designed to—

(A) ensure that participants overcome personal problems that would interfere with their successful participation; and

(B) develop a strong, mutually supportive peer context in which values, goals, cultural heritage, and life skills can be explored and strengthened.

(4) LEADERSHIP DEVELOPMENT.—Opportunities to develop the decisionmaking, speaking, negotiating, and other leadership skills of participants, such as the establishment and operation of a youth council with meaningful decisionmaking authority over aspects of the project.

(5) PREPARATION FOR AND PLACEMENT IN UNSUBSIDIZED EMPLOYMENT.—Activities designed to maximize the value of participants as future employees and to prepare participants for seeking, obtaining, and retaining unsubsidized employment.

(6) NECESSARY SUPPORT SERVICES.—To provide support services and need-based stipends necessary to enable individuals to participate in the program and, for a period not to exceed 6 months after completion of training, to assist participants through support services in retaining employment.

(b) CONDITIONS.—The provision of service opportunities to participants in Youthbuild projects shall be made conditional upon attendance and participation by such individuals in the educational services and activities described in subsection (a). The duration of participation for each individual in educational services and activities shall be at least equal to the total number of hours for which a participant serves and is paid wages by a Youthbuild project.

(42 U.S.C. 5091c)

SEC. 705. USES OF FUNDS.

(a) FUNDS.—Funds provided under this title may be used only for activities that are in addition to activities that would otherwise be available in the absence of such funds.

(b) ASSISTANCE CRITERIA.—Assistance provided to each Youthbuild project under this title shall be used only for—

(1) education and job training services and activities described in paragraphs (2), (3), (4), (5), and (6) of section 704(a);

(2) wages and benefits paid to participants in accordance with sections 704(a) and 706; and

(3) administrative expenses incurred by the project in an amount not to exceed 10 percent of the amount of assistance provided to the project under this title unless such project receives a waiver, on the basis of substantial need, granted by the Director to use an amount not to exceed 15 percent of the amount of such assistance provided under this title for such purposes.

(42 U.S.C. 5091d)

SEC. 706. ELIGIBLE PARTICIPANTS.

(a) IN GENERAL.—Except as provided in subsection (b), an individual shall be eligible to participate in a Youthbuild project receiving assistance under this title if such individual is—

(1) 16 to 24 years of age, inclusive;

(2) economically disadvantaged; and

(3) an individual who has dropped out of high school whose reading and mathematics skills are at or below the 8th grade level.

(b) EXCEPTIONS.—Not more than 25 percent of the participants in a Youthbuild project receiving assistance under this title may be individuals who do not meet the requirements of subsection (a).

(c) PARTICIPATION LIMITATION.—Any eligible individual selected for full-time participation in a Youthbuild project may participate full-time for a period of not less than 6 months and not more than 18 months.

(42 U.S.C. 5091e)

SEC. 707. LIVING ALLOWANCES.

(a) AMOUNT OF ALLOWANCE.—

(1) IN GENERAL.—Each participant in a full-time Youthbuild program that receives assistance under this title shall receive a living allowance of not more than an amount equal to 100 percent of the poverty line for a family of two (as defined in section 673(2) of the Community
Service Block Grant Act (42 U.S.C. 9902(2)).

(2) NON-FEDERAL SOURCES.—Notwithstanding paragraph (1), a program agency may provide participants with additional amounts that are made available from non-Federal sources.

(3) REDUCTION IN EXISTING PROGRAM BENEFITS.—Nothing in this section shall be construed to require a program in exist-

ence on the date of enactment of this title to decrease any stipends, salaries, or living allowances provided to participants under such program so long as the amount of any such stipend, salaries, or living allowances that is in excess of the levels provided for in this section are paid from non-Federal sources.

(b) NONDISCRIMINATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), an individual with responsibility for the operation of a Youthbuild project shall not discriminate on the basis of religion against a participant or a member of the project staff who is paid with funds under this title.

(2) EXCEPTION.—Paragraph (1) shall not apply to the employment, with funds provided under this title, of any member of the staff of a Youthbuild project who was employed with the organization operating the project on the date the grant funded under this title was awarded.

(42 U.S.C. 5091f)

SEC. 708. CONTRACTS.

Each Youthbuild project shall carry out the services and activities under this title directly or through arrangements or under contracts with administrative entities designated under section 103(b)(1)(B) of the Job Training Partnership Act (29 U.S.C. 1503(b)(1)(B)), with State and local educational agencies, institutions of higher education, State and local housing development agencies, and with other public agencies and private organizations.

(42 U.S.C. 5091g)

SEC. 709. PERFORMANCE STANDARDS.

(a) IN GENERAL.—The Director, in consultation with the Secretary of Labor, shall prescribe standards for evaluating the performance of Youthbuild projects receiving assistance under this title, including the following factors:

(1) Placement in unsubsidized employment.

(2) Retention in unsubsidized employment.

(3) An increase in earnings.

(4) Improvement of reading and other basic skills.

(5) Attainment of a high school diploma or its equivalent.

(6) Completion of projects providing a benefit to the community.

(b) VARIATIONS.—The Director shall prescribe variations to the standards determined under subsection (a) by taking into account the economic conditions of the areas in which Youthbuild projects are located and appropriate special characteristics, such as the extent of English language proficiency and offender status of Youthbuild participants.

(42 U.S.C. 5091h)

SEC. 710. APPLICATIONS.

(a) SUBMISSION.—To apply for a grant under this title, an eligible entity shall submit an application to the Director in accordance with procedures established by the Director.

(b) CRITERIA.—Each such application shall—

(1) describe the educational services, job training, supportive services, service opportunities, and other services and activities that will be provided to participants;

(2) describe the proposed construction of rehabilitation activities to be undertaken and the anticipated schedule for carrying out such activities;

(3) describe the manner in which eligible youths will be recruited and selected, including a description of arrangements which will be made with community-based organizations, State and local educational agencies, public assistance agencies, the courts of jurisdiction for status and youth offenders, homeless shelters and other agencies that serve homeless youth, foster care agencies, and other appropriate public and private agencies;

(4) describe the special outreach efforts that will be undertaken to recruit eligible young women (including young women with dependent children);

(5) describe how the proposed project will be coordinated with other Federal, State, and local activities, including vocational, adult and bilingual education programs, job training supported by funds available under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) and the Family Support Act of 1988, housing and economic development, and programs that receive assistance under section 106 of the Housing and Community Development Act of 1974 (42 U.S.C. 5306);

(6) provide assurances that there will be a sufficient number of supervisory personnel on the project and that the supervisory personnel are trained in the skills needed to carry out the project;

(7) describe activities that will be undertaken to develop the leadership skills of participants;

(8) set forth a detailed budget and describe the system of fiscal controls and auditing and accountability procedures that will be used to ensure fiscal soundness; and

(9) set forth assurances, arrangements, and conditions the Director determines are necessary to carry out this title.

(42 U.S.C. 5091i)

SEC. 711. SELECTION OF PROJECTS.

In approving applications for assistance under this title, the Director shall give priority to applicants that demonstrate the following:

(1) POTENTIAL FOR SUCCESS.—The greatest likelihood of success, as indicated by such factors as the past experience of an applicant with housing rehabilitation or construction, youth and youth education and employment training programs, management capacity, fiscal reliability, and community support.

(2) NEED.—Have the greatest need for assistance, as determined by factors such as—

(A) the degree of economic distress of the community from which participants would be recruited, including—

(i) the extent of poverty;

(ii) the extent of youth unemployment; and

(iii) the number of individuals who have dropped out of high school; and

(B) the degree of economic distress of the locality in which the housing would be rehabilitated or constructed, including—

(i) objective measures of the incidence of homelessness;

(ii) the relation between the supply of affordable housing for low-income families and the number of such families in the locality;

(iii) the extent of housing overcrowding; and

(iv) the extent of poverty.

(42 U.S.C. 5091j)

SEC. 712. MANAGEMENT AND TECHNICAL ASSISTANCE.

(a) GENERAL ADMINISTRATION.—The program established under this title shall be administered by an individual with significant experience in the administration of youth service programs that explicitly attempt to enhance the basic academic and vocational skills of participants in such programs. The Director is authorized to delegate any of the functions of the Director under this title as may be appropriate to the Secretary of Labor and provide for the performance of any of the provisions of this title on a cost-reimbursable basis by the Secretary of Labor.

(b) DIRECTOR ASSISTANCE.—The Director may enter into contracts with a qualified public or private nonprofit agency to provide assistance to the Director in the management, supervision, and coordination of Youthbuild projects receiving assistance under this title.

(c) SPONSOR ASSISTANCE.—The Director shall enter into contracts with a qualified public or private nonprofit agency to provide appropriate training, information, and technical assistance to sponsors of projects assisted under this title.

(d) APPLICATION PREPARATION.—Technical assistance may also be provided in the development of project proposals and the preparation of applications for assistance under this title to eligible entities which intend or desire to submit such applications. Community-based organizations shall be given first priority in the provision of such assistance.

(e) RESERVATION OF FUNDS.—The Director shall reserve 5 percent of the amounts available in each fiscal year under section 715 to carry out subsections (c) and (d).

(42 U.S.C. 5091k)

SEC. 713. DEFINITIONS.

For purposes of this title:

(1) COMMUNITY-BASED ORGANIZATIONS.—The term "community-based organizations" has the meaning given such term in section 4(8) of the Job Training Partnership Act (29 U.S.C. 1503(8)).

(2) DIRECTOR.—The term "Director" means the Director of the ACTION agency.

(3) DROPPED OUT OF HIGH SCHOOL.—The term "individual who has dropped out of high school" means an individual who

is neither attending any school nor subject to a compulsory attendance law and who has not received a secondary school diploma or a certificate of equivalency for such diploma, but does not include any individual who has attended secondary school at any time during the preceding 6 months.

(4) ECONOMICALLY DISADVANTAGED.—The term "economically disadvantaged" has the meaning given such term in section 4(8) of the Job Training Partnership Act (29 U.S.C. 1503(8)).

(5) ELIGIBLE ENTITY.—The term "eligible entity" means a public or private nonprofit agency, such as—

(A) community-based organizations;

(B) administrative entities designated under section 103(b)(1)(B) of the Job Training Partnership Act (29 U.S.C. 1501(b)(1)(B));

(C) community action agencies;

(D) State and local housing development agencies;

(E) State and local youth service and conservation corps; and

(F) any other entity that is eligible to provide education and employment training under other Federal employment training programs.

(6) HOMELESS INDIVIDUAL.—The term "homeless individual" has the meaning given such term in section 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302).

(7) HOUSING DEVELOPMENT AGENCY.—The term "housing development agency" means any agency of a State or local government, or any private nonprofit organization that is engaged in providing housing for the homeless or low-income families.

(8) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given such term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

(9) LIMITED ENGLISH PROFICIENCY.—The term "limited English proficiency" has the meaning given such term in section 7003 of the Bilingual Education Act (20 U.S.C. 3223).

(10) LOW-INCOME FAMILY.—The term "low-income family" has the meaning given the term "lower income families" in section 3(b)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(2)).

(11) OFFENDER.—The term "offender" means any adult or juvenile with a record of arrest or conviction for a criminal offense.

(12) QUALIFIED NONPROFIT AGENCY.—The term "qualified public or private nonprofit agency" means any nonprofit agency that has significant prior experience in the operation of projects similar to the Youthbuild program authorized under this title and that has the capacity to provide effective technical assistance under this title.

(13) RESIDENTIAL RENTAL PURPOSES.—The term "residential rental purposes" includes a cooperative or mutual housing facility that has a resale structure that enables the cooperative

to maintain affordability for low-income individuals and families.

(14) SERVICE OPPORTUNITY.—The term "service opportunity" means the opportunity to perform work in return for wages and benefits in the construction or rehabilitation of real property in accordance with this title.

(15) STATE.—The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, or any other territory or possession of the United States.

(16) TRANSITIONAL HOUSING.—The term "transitional housing" means a project that has as its purpose facilitating the movement of homeless individuals and families to independent living within a reasonable amount of time. Transitional housing includes housing primarily designed to serve deinstitutionalized homeless individuals and other homeless individuals with mental or physical disabilities and homeless families with children.

(17) YOUTHBUILD PROJECT.—The term "Youthbuild project" means any project that receives assistance under this title and provides disadvantaged youth with opportunities for service, education, and training in the construction or rehabilitation of housing for homeless and other low-income individuals.

(42 U.S.C. 5091l)

SEC. 715.[1] REGULATIONS.

The Director shall issue any regulations necessary to carry out this title.

(42 U.S.C. 5091m)

SEC. 716.[1] AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title $1,000,000 for fiscal year 1991, $2,000,000 for fiscal year 1992, and $5,000,000 for fiscal year 1993.

(42 U.S.C. 5091n)

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[1] Error in amendment made by section 211 of Public Law 101–610. Sections 715 and 716 should be redesignated as sections 714 and 715, respectively.

DRUG-FREE SCHOOLS AND COMMUNITIES ACT OF 1986

Drug-Free Schools and Communities Act of 1986

(Title V of the Elementary and Secondary Education Act)

TITLE V—DRUG EDUCATION

SEC. 5101. SHORT TITLE.

This title may be cited as the "Drug-Free Schools and Communities Act of 1986".

(20 U.S.C. 3171)

SEC. 5102. FINDINGS.

The Congress finds that:

(1) Drug abuse education and prevention programs are essential components of a comprehensive strategy to reduce the demand for and use of drugs throughout the Nation.

(2) Drug use and alcohol abuse are widespread among the Nation's students, not only in secondary schools, but increasingly in elementary schools as well.

(3) The use of drugs and the abuse of alcohol by students constitute a grave threat to their physical and mental well-being and significantly impede the learning process.

(4) The tragic consequences of drug use and alcohol abuse by students are felt not only by students and their families, but also by their communities and the Nation, which can ill afford to lose their skills, talents, and vitality.

(5) Schools and local organizations in communities throughout the Nation have special responsibilities to work together to combat the scourge of drug use and alcohol abuse.

(6) Prompt action by our Nation's schools, families, and communities can bring significantly closer the goal of a drug-free generation and a drug-free society.

(20 U.S.C. 3172)

SEC. 5103. PURPOSE.

It is the purpose of this title to establish programs of drug abuse education and prevention (coordinated with related community efforts and resources) through the provision of Federal financial assistance—

(1) to States for grants to local and intermediate educational agencies and consortia to establish, operate, and improve local programs of drug abuse prevention, early intervention, rehabilitation referral, and education in elementary and secondary schools (including intermediate and junior high schools);

(2) to States for grants to and contracts with community-based organizations for programs of drug abuse prevention,

early intervention, rehabilitation referral, and education for school dropouts and other high-risk youth;

(3) to States for development, training, technical assistance, and coordination activities;

(4) to institutions of higher education to establish, implement, and expand programs of drug abuse education and prevention (including rehabilitation referral) for students enrolled in colleges and universities; and

(5) to institutions of higher education in cooperation with State and local educational agencies for teacher training programs in drug abuse education and prevention.

(20 U.S.C. 3173)

PART A—FINANCIAL ASSISTANCE FOR DRUG ABUSE EDUCATION AND PREVENTION PROGRAMS

SEC. 5111. AUTHORIZATION OF APPROPRIATIONS.

(a)(1) IN GENERAL.—For the purpose of carrying out this title (other than part C and section 5136), there are authorized to be appropriated $350,000,000 for the fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993.

(2)(A) Except as provided in subparagraph (B), there are authorized to be appropriated for purposes of carrying out part C and section 5136 $16,000,000 for fiscal year 1989, $20,000,000 for the fiscal year 1990, and $50,000,000 for each of the fiscal years 1991, 1992, and 1993.

(B) No funds may be appropriated for any fiscal year pursuant to the authorization contained in subparagraph (A) unless the amount appropriated for such fiscal year pursuant to the authorization contained in paragraph (1) is not less than $215,000,000.

(3) There are authorized to be appropriated for purposes of carrying out section 5136 $25,000,000 for each of the fiscal years 1991, 1992, and 1993.

(b) AVAILABILITY.—(1) Appropriations for any fiscal year for payments made under this title in accordance with regulations of the Secretary may be made available for obligation or expenditure by the agency or institution concerned on the basis of an academic or school year differing from such fiscal year.

(2) Funds appropriated for any fiscal year under this title shall remain available for obligation and expenditure until the end of the fiscal year succeeding the fiscal year for which such funds were appropriated.

(20 U.S.C. 3181)

SEC. 5112. RESERVATIONS AND STATE ALLOTMENTS.

(a) RESERVATIONS.—Except as provided in subsection (c), from the sums appropriated or otherwise made available to carry out this title for any fiscal year, the Secretary shall reserve—

(1) 1 percent for payments to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, to be allotted in accordance with their respective needs;

(2) 1 percent for programs for Indian youth under section 5133;

(3) 0.2 percent for programs for Hawaiian natives under section 5134;

(4) 8 percent for programs with institutions of higher education under section 5131;

(5) 3.5 percent for Federal activities under section 5132; and

(6) 4.5 percent for regional centers under section 5135.

(b) STATE ALLOTMENTS.—(1) From the remainder of the sums not reserved under subsection (a), the Secretary shall allot to each State an amount which bears the same ratio to the amount of such remainder as the school-age population of the State bears to the school-age population of all States, except that no State shall be allotted less than an amount equal to 0.5 percent of such remainder.

(2) The Secretary may reallot any amount of any allotment to a State to the extent that the Secretary determines that the State will not be able to obligate such amount within 2 years of allotment. Any such reallotment shall be made on the same basis as an allotment under paragraph (1).

(3) For each fiscal year, the Secretary shall make payments, as provided by section 6503(a) of title 31, United States Code, to each State from its allotment under this subsection from amounts appropriated for that fiscal year.

(c) DISTRIBUTION OF APPROPRIATIONS.—Except for funds provided for any fiscal year for part C of this title and sections 5136 and 5137, and for fiscal year 1991 for section 5146, the Secretary shall distribute any amounts appropriated or otherwise made available to carry out this title for any fiscal year in the following manner:

(1) In any year in which the total of such amounts is not more than the total amount appropriated or otherwise made available to carry out this title for the fiscal year 1989, the Secretary shall distribute such total amount as provided in subsections (a) and (b).

(2) In any year in which the total of such amounts is greater than the total amount appropriated or otherwise made available to carry out this title for the fiscal year 1989, the amount in excess of the total amount appropriated or otherwise made available to carry out this title for the fiscal year 1989 shall be distributed as follows:

(A) Such amount as is necessary to carry out the reservations under paragraphs (1), (2), and (3) of subsection (a);

(B)(i) Except as provided in clause (ii), not more than $14,700,000 to be allocated to the chief executive officer of each State, in an amount which bears the same ratio to such amount as the school-age population of the State bears to the school-age population of all States.

(ii) For fiscal year 1990, in addition to amounts made available under clause (i), $25,000,000 shall be available for distribution to the chief executive officer of each State in an amount which bears the same ratio to such additional amount as the school-age population of the State bears to the school-age population of all States. Funds available under this clause shall be used to carry out section 5136.

(C) Subject to subparagraph (D), of the remainder—

(i) 50 percent of such remainder shall be distributed to the States under subsection (b); and

(ii) 50 percent of such remainder shall be distributed to the States on the basis of the amounts received by each State under part A of title I of chapter 1 [1] for the preceding fiscal year.

(D) Under subparagraph (C), no State shall be allotted less than an amount equal to 0.5 percent of such remainder.

(d) DEFINITION.—For the purposes of this section, the term "State" means any of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(20 U.S.C. 3182)

PART B—STATE AND LOCAL PROGRAMS

SEC. 5121. USE OF ALLOTMENTS BY STATES.

(a) STATE PROGRAM.—(1) An amount equal to 30 percent of the total amount paid to a State from its allotment under section 5112 for any fiscal year shall be used by the chief executive officer of such State for a State program in accordance with section 5122.

(2) Not more than 2.5 percent of the amount reserved under paragraph (1) may be used for administrative costs of the chief executive officer of the State incurred in carrying out the duties of the chief executive officer under this part.

(b) WITHIN STATE DISTRIBUTION; ADMINISTRATIVE COSTS.—An amount equal to 70 percent of the total amount paid to a State from its allotment under section 5112 for any fiscal year shall be used by the State educational agency to carry out its responsibilities in accordance with section 5124 and for grants to local and intermediate educational agencies and consortia for programs and activities in accordance with section 5125.

(c) USE OF ADDITIONAL AMOUNTS.—Any amounts received by a State under section 5112(c)(2)(C) shall be used by the State educational agency to make grants to local educational agencies for purposes of carrying out programs in accordance with section 5125. The State educational agency shall distribute any such amounts among the local educational agencies within the State on the basis of the amounts received by each such local educational agency under part A of title I of chapter 1 [1] for the preceding fiscal year.

(20 U.S.C. 3191)

SEC. 5122. STATE PROGRAMS.

(a) IN GENERAL.—Not more than 42.5 percent of the funds available for each fiscal year under section 5121(a) to the chief executive officer of a State shall be used for grants to and contracts with parent groups, community action agencies, community-based organizations, and other public entities and private nonprofit entities) [2] for the development and implementation of programs and activities such as—

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[1] So in law. Probably should read "part A of chapter 1 of title I".

[2] So in law. Closing parenthesis probably should not appear. See Public Law 101–226, sec. 5(1), 103 Stat. 1929.

(1) local broadly-based programs for drug and alcohol abuse prevention, early intervention, rehabilitation referral, and education for all age groups;

(2) training programs concerning drug abuse education and prevention for teachers, counselors, other educational personnel, parents, local law enforcement officials, judicial officials, other public service personnel, and community leaders;

(3) the development and distribution of educational and informational materials to provide public information (through the media and otherwise) for the purpose of achieving a drug-free society;

(4) technical assistance to help community-based organizations and local and intermediate educational agencies and consortia in the planning and implementation of drug abuse prevention, early intervention, rehabilitation referral, and education programs;

(5) activities to encourage the coordination of drug abuse education and prevention programs with related community efforts and resources, which may involve the use of a broadly representative State advisory council including members of the State board of education, members of local boards of education, parents, teachers, counselors, health and social service professionals, and others having special interest or expertise;

(6) other drug abuse education and prevention activities consistent with the purposes of this title, which may include a youth suicide prevention program;

(7) intrastate drug and alcohol abuse education and prevention centers for providing outreach, consultation, training, and referral services to schools, organizations, and members of the community, except that—

(A) any administrative expenses of such centers, including overhead expenses, shall be considered, for the purposes of section 5121(a)(2), to be administrative costs of the chief administrative officer of the State incurred in carrying out the duties of the chief executive officer under this part;

(B) amounts made available for purposes of this paragraph may not be used for building or construction; and

(C) the activities of any such center that receives assistance under this paragraph shall be coordinated with the activities of other relevant centers in the State; and

(8) to promote, establish, and maintain drug-free school zones for schools within the State, which shall include—

(A) the determination, with the assistance of municipal authorities and local law enforcement agencies, as appropriate, of the geographical boundaries of schools within the State and the posting of signs identifying school properties as drug-free school zones;

(B) drug-abuse education and prevention programs and enforcement policies designed to eliminate the illicit use of alcohol and drugs in such zones;

(C) assisting teachers, administrators, athletic directors, and other school personnel in cooperating fully with law enforcement officials to punish violations of laws relating to illegal drugs;

(D) informing the community—

(i) of the content and intent of laws relating to school safety and laws relating to illegal drugs as they affect schoolchildren; and

(ii) of the perimeters of the drug-free school zones;

(E) employing the services of the local or substate regional advisory council on drug abuse education and prevention established or designated by the local application submitted under section 5126(a) as a resource for advice and support with respect to implementation of such zones; and

(F) communication to students, teachers, athletic directors, and other school personnel by administrators that activities that are illicit and harmful to the health and well-being of the students will not be tolerated within schools and their surrounding environments.

(b) INNOVATIVE PROGRAMS.—(1) Not less than 42.5 percent of the funds available for each fiscal year under section 5121(a) to the chief executive officer of a State shall be used for innovative community-based programs of coordinated services for high-risk youth. The chief executive officer shall make grants to or enter into contracts with public entities or private nonprofit entities for purposes of providing community-based programs of coordinated services that are designed for high-risk youths, including programs that use strategies to improve skills of such youths such as vocational and educational counseling and job skills training, giving priority to assisting community action agencies, community-based organizations, parent groups, and other entities which are representative of communities or significant segments of communities and which have the capability to provide such services. The chief executive officer shall also make grants to private nonprofit organizations to develop new strategies to communicate anti-drug abuse messages to youths.

(2) For purposes of this subsection, the term "high risk youth" means an individual who has not attained the age of 21 years, who is at high risk of becoming or who has been a drug or alcohol abuser, and who—

(A) is a school dropout;

(B) has experienced repeated failure in school;

(C) has become pregnant;

(D) is economically disadvantaged;

(E) is the child of a drug or alcohol abuser;

(F) is a victim of physical, sexual, or psychological abuse;

(G) has committed a violent or delinquent act;

(H) has experienced mental health problems;

(I) has attempted suicide;

(J) has experienced long-term physical pain due to injury; and

(K) is a juvenile in a detention facility within the State.

(3) Not more than 10 percent of participants in programs under paragraph (1) may be individuals who are not high-risk youth if the Secretary determines that the participation of such in-

dividuals will not significantly diminish the amount or quality of services provided to high-risk youth.

(c) Amounts made available to the chief executive officer of a State for use under this section shall be expended only for activities that—

(1) are authorized under subsection (a) or (b); and

(2) have demonstrable benefits for individuals who are eligible to participate in such activities.

(d) DRUG TESTING PROGRAMS.—For each fiscal year, amounts made available to the chief executive officer of a State by section 5121(a) may be used for nondiscriminatory random drug testing programs for students voluntarily participating in athletic activities only in schools which voluntarily choose to participate in such a program. Nothing in this subsection shall prescribe or prohibit the use of drug testing programs.

(c)[1] DRUG ABUSE RESISTANCE EDUCATION PROGRAMS.—(1) Not less than 10 percent of the funds available for each fiscal year under section 5121(a) to the chief executive officer of a State shall be used for grants to local educational agencies in consortium with entities which have experience in assisting school districts to provide instruction to students grades kindergarten through 6 to recognize and resist pressures that influence such students to use controlled substances, as defined in Schedules I and II of section 202 of the Controlled Substances Act the possession or distribution of which is unlawful under such Act, or beverage alcohol, such as Project Drug Abuse Resistance Education, that meet the requirements of paragraph (2).

(2) A local educational agency in consortium with an entity shall not be eligible for a grant under paragraph (1) unless such local educational agency in consortium with an entity will use assistance provided under such grant to provide or arrange for the provisions[2] of services that shall include—

(A) drug abuse resistance education instruction for students grades kindergarten through 6 that is designed to teach students to recognize and resist pressures to experiment that influence such children to use controlled substances, as defined under paragraph (1), or beverage alcohol, including instruction in the following areas—

(i) drug use and misuse;
(ii) understanding the consequences of drug abuse;
(iii) resistance techniques;
(iv) assertive response styles;
(v) managing stress without taking drugs;
(vi) decisionmaking and risk taking;
(vii) media influences on drug use;
(viii) positive alternatives to drug abuse behavior;
(ix) interpersonal and communication skills;
(x) self-esteem building activities; and
(xi) resistance to peer pressure and gang pressure;

(B) provisions for parental involvement;

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[1] So in law. P.L. 101-647, sec. 1504(3), added new subsections (c) through (f) without redesignating or striking the existing subsections (c) and (d).

[2] So in law. Probably should be "provision".

(C) classroom instruction by uniformed law enforcement officials;

(D) the use of positive student leaders to influence younger students not to use drugs;

(E) an emphasis on activity-oriented techniques designed to encourage student-generated responses to problem-solving situations; and

(F) the awarding of a certificate of achievement to each student who participates in a drug abuse resistance education program.

(3) Amounts received under paragraph (1) by any local educational agency or entity shall be used only to supplement, not to supplant, the amount of Federal, State, and local funds expended for the support of projects of the type described in paragraph (2).

(d)[1] REPLICATION OF SUCCESSFUL DRUG EDUCATION PROGRAMS.—Not less than 5 percent of the funds available for each fiscal year under section 5121(a) to the chief executive officer of a State shall be used for grants to local educational agencies or consortia of local educational agencies and private nonprofit entities to provide drug abuse education, prevention, or counseling services to students in kindergarten through grade 12.

(e)[1] ELIGIBILITY.—A local educational agency or consortium described in subsection (a) shall not be eligible for a grant under this section unless such agency or consortium agrees—

(1) to use assistance provided under such grant to provide or arrange for the provision of programs offering drug abuse education, prevention, or counseling to students of compulsory school age, including—

(A) programs to provide drug abuse counseling in the schools by trained personnel;

(B) programs that stress the use of peers to combat student abuse of drugs and alcohol;

(C) programs that stress parental and community involvement in combating student abuse of drugs and alcohol; and

(D) other appropriate programs;

(2) that programs provided with assistance under the grant shall be designed to prevent or eliminate student abuse of drugs or alcohol;

(3) to use assistance provided under the grant to expand or replicate a program that has a demonstrated record of success at either the State or local level in preventing or eliminating student abuse of drugs or alcohol; and

(4) to ensure that the program to be expanded or replicated is appropriate for the students to be served, based on an assessment of their most important needs.

(f)[1] APPLICATION.—A local educational agency or consortium described in subsection (a) that desires to receive a grant under this section shall submit an application to the chief executive office of the State at such time, in such manner, and containing or accompanied by such information and assurances as such officer may reasonably require. Each such application shall contain—

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[1] See footnote 1 on previous page.

(1) a discussion of why the particular program to be assisted under the grant is appropriate for and responds to the particular needs of the students to be served;

(2) a complete description of the success of the program to be assisted under the grant in reducing or eliminating drug or alcohol abuse among students of compulsory school age;

(3) an assurance that the consortium concerned will provide assistance, in cash or in kind, for the program assisted under the grant in an amount equal to not less than 10 percent of the amount provided under the grant; and

(4) an assurance that funds received under the grant shall be used to supplement, not supplant, the amount of other Federal, State, and local funds expended for support of programs of the type described in subsection (b).

(20 U.S.C. 3192)

SEC. 5123. STATE APPLICATIONS.

(a) IN GENERAL.—In order to receive an allotment under section 5112(b), a State shall submit an application to the Secretary. As part of such application, the chief executive officer of the State shall agree to use the funds made available under section 5121(a) in accordance with the requirements of this part. As part of such application, the State educational agency of the State shall agree to use the funds made available under section 5121(b) in accordance with the requirements of this part.

(b) CONTENTS OF APPLICATIONS.—The application submitted by each State under subsection (a) shall—

(1) cover a period of three fiscal years;

(2) be submitted at such time and in such manner, and contain such information, as the Secretary may require;

(3) contain assurances that the Federal funds made available under this part for any period will be so used as to supplement and increase the level of State, local, and non-Federal funds that would in the absence of such Federal funds be made available for the programs and activities for which funds are provided under this part and will in no event supplant such State, local, and other non-Federal funds;

(4) provide that the State will keep such records and provide such information as may be required by the Secretary for fiscal audit and program evaluation;

(5) contain assurances that there is compliance with the specific requirements of this part;

(6) include a comprehensive plan describing how money allocated to the chief executive officer is to be used;

(7) describe the manner in which the State educational agency will coordinate its efforts with appropriate State health, law enforcement, and drug abuse prevention agencies, including the State agency which administers the Alcohol, Drug Abuse, and Mental Health block grant under part B of title XIX of the Public Health Service Act, and judicial officials;

(8) provide assurances that the State educational agency will provide financial assistance under this part only to local and intermediate educational agencies and consortia which es-

tablish and implement drug abuse education and prevention programs in elementary and secondary schools;

(9) provide for an annual evaluation of the effectiveness of programs assisted under this part;

(10) provide a description of how, where feasible, the alcohol and drug abuse programs will be coordinated with youth suicide prevention programs funded by the Federal Government, State and local governments, and nongovernmental agencies and organizations;

(11) provide a description of State teacher certification requirements, if applicable, regarding training in drug and alcohol abuse education and prevention; and

(12) include a plan for providing innovative programs of drug abuse education for juveniles in detention facilities within the State as required by section 5122(b)(1)(A).

(20 U.S.C. 3193)

SEC. 5124. RESPONSIBILITIES OF STATE EDUCATIONAL AGENCIES.

(a) GRANTS TO LOCAL AND INTERMEDIATE EDUCATIONAL AGENCIES.—(1) Each State educational agency shall use a sum which shall not be less than 90 percent of the amounts available under section 5121(b) for each fiscal year for grants to local educational agencies, intermediate educational agencies, and consortia in the State, in accordance with applications approved under section 5126.

(2) From the sum described in paragraph (1), the State educational agency shall distribute funds for use among local educational agencies, intermediate educational agencies, and consortia in the State on the basis of the relative enrollments in public schools and private nonprofit schools served by such agencies and consortia.

(3)(A) Not later than July 1 of each year, the State educational agency shall inform each local educational agency, intermediate educational agency, and consortium in the State of the amount allocated to such agency or consortium from amounts available under subsections (b) and (c) of section 5121. If a local educational agency or a consortium of local educational agencies chooses not to apply to receive the amount allocated to such agency under this subsection, the State educational agency—

(i) shall distribute such amount to the intermediate educational agency serving such local educational agency or consortium; or

(ii) may, if it is able to facilitate the arrangement of a consortium among local educational agencies in the State that choose not to apply to receive the amounts allocated to such agencies under this subsection, distribute such amount to such consortium.

(B) The State educational agency shall distribute to a local educational agency, intermediate educational agency, or consortium the amount allocated to such agency or consortium from amounts available under subsections (b) and (c) of section 5121 upon the approval of an application for such agency under section 5126.

(4)(A) Except as provided in subparagraph (B), upon the expiration of the 1-year period beginning on the date that a local educational agency, intermediate educational agency, or consortium under this subsection receives its allocation under this subsection—

(i) such agency or consortium shall return to the State educational agency any funds from such allocation that remain unobligated; and

(ii) the State educational agency shall reallocate any such amount to local educational agencies, intermediate educational agencies, or consortia that have plans for using such amount for programs or activities on a timely basis.

(B) In any fiscal year, a local educational agency, intermediate educational agency, or consortium may retain for obligation in the succeeding fiscal year—

(i) an amount equal to not more than 25 percent of the allocation it receives under this subsection for such fiscal year; or

(ii) upon a demonstration of good cause by such agency or consortium, a greater amount approved by the State educational agency.

(b) STATE PROGRAMS.—Each State educational agency shall use not more than 10 percent of the amounts available under section 5121(b) for each fiscal year for such activities as—

(1) training and technical assistance programs concerning drug abuse education and prevention for local and intermediate educational agencies, including teachers, administrators, athletic directors, other educational personnel, parents, local law enforcement officials, and judicial officials;

(2) the development, identification, and dissemination of the most readily available, accurate, and up-to-date model curriculum materials that clearly and consistently teach that illicit drug use is harmful for consideration by local educational agencies and for evaluation of the materials;

(3) demonstration projects in drug abuse education and prevention;

(4) special financial assistance to enhance resources available for drug abuse education and prevention in areas serving large numbers of economically disadvantaged children or sparsely populated areas, or to meet special needs; and

(5) administrative costs of the State educational agency in carrying out its responsibilities under this part, not in excess of 5 percent of the amounts available under subsections (b) and (c) of section 5121.

(20 U.S.C. 3194)

SEC. 5125. LOCAL DRUG ABUSE EDUCATION AND PREVENTION PROGRAMS.

(a) IN GENERAL.—Any amounts made available to local or intermediate educational agencies or consortia under section 5124(a) shall be used for drug and alcohol abuse prevention and education programs and activities, including—

(1) the development, acquisition, and implementation of elementary and secondary school drug abuse education and prevention curricula and textbooks and materials, including audiovisual materials—

(A) developed from the most readily available, accurate, and up-to-date information; and

(B) which clearly and consistently teach that illicit drug use is wrong and harmful;

(2) school-based programs of drug abuse prevention and early intervention (other than treatment), which—

(A) should, to the extent practicable, employ counselors whose sole duty is to provide drug abuse prevention counseling to students;

(B) may include the use of drug-free older students as positive role models and instruction relating to—

(i) self-esteem;

(ii) drugs and drug addiction;

(iii) decisionmaking and risk-taking;

(iv) stress management techniques; and

(v) assertiveness;

(C) may bring law enforcement officers into the classroom to provide antidrug information and positive alternatives to drug use, including decisionmaking and assertiveness skills; and

(D) in the case of a local educational agency that determines it has served all students in all grades, such local educational agency may target additional funds to particularly vulnerable age groups, especially those in grades 4 through 9;

(3) family drug abuse prevention programs, including education for parents to increase awareness about the symptoms and effects of drug use through the development and dissemination of appropriate educational materials;

(4) drug abuse prevention and intervention counseling programs (which counsel that illicit drug use is wrong and harmful) for students, parents, and immediate families, including professional and peer counselors and involving the participation (where appropriate) of parent, or other adult counselors and reformed abusers, which may include—

(A) the employment of counselors, social workers, psychologists, or nurses who are trained to provide drug abuse prevention and intervention counseling; or

(B) the provision of services through a contract with a private nonprofit organization that employs individuals who are trained to provide such counseling;

(5) outreach activities, drug and alcohol abuse education and prevention programs, and referral services, for school dropouts;

(6) guidance counseling programs and referral services for parents and immediate families of drug and alcohol abusers;

(7) programs of referral for drug abuse treatment and rehabilitation;

(8) programs of inservice and preservice training in drug and alcohol abuse prevention for teachers, counselors, other school personnel, athletic directors, public service personnel, law enforcement officials, judicial officials, and community leaders;

(9) programs in primary prevention and early intervention, such as the interdisciplinary school-team approach;

(10) community education programs and other activities to involve parents and communities in the fight against drug and alcohol abuse;

(11) public education programs on drug and alcohol abuse, including programs utilizing professionals and former drug and alcohol abusers;[1]

(12) model alternative schools for youth with drug problems that address the special needs of such students through education and counseling; and[2]

(13) on-site efforts in schools to enhance identification and discipline of drug and alcohol abusers, and to enable law enforcement officials to take necessary action in cases of drug possession and supplying of drugs and alcohol to the student population;

(14) special programs and activities to prevent drug and alcohol abuse among student athletes, involving their parents and family in such drug and alcohol abuse prevention efforts and using athletic programs and personnel in preventing drug and alcohol abuse among all students;

(15) in the case of a local educational agency that determines that it provides sufficient drug and alcohol abuse education during regular school hours, after-school programs that provide drug and alcohol abuse education for school-aged children, including children who are unsupervised after school, and that may include school-sponsored sports, recreational, educational, or instructional activities (local educational agency may make grants or contracts with nonprofit community-based organizations that offer sports, recreation, education, or child care programs); and

(16) other programs of drug and alcohol abuse education and prevention, consistent with the purposes of this part.

(b) ELIGIBILITY.—A local or intermediate educational agency or consortium may receive funds under this part for any fiscal year covered by an application under section 5126 approved by the State educational agency.

(20 U.S.C. 3195)

SEC. 5126. LOCAL APPLICATIONS.

(a) IN GENERAL.—(1) In order to be eligible to receive a grant under this part for any fiscal year, a local or intermediate educational agency or consortium shall submit an application to the State educational agency for approval before the expiration of the 120-day period beginning on the date that the State educational agency notifies the local educational agency, intermediate educational agency, or consortium of the amount allocated to such agency or consortium under section 5124(a)..[3]

(2) An application under this section shall be for a period not to exceed 3 fiscal years and may be amended annually as may be

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[1] Public Law 101–226, section 8(4), 103 Stat. 1932 struck "and" at the end of 5125(a)(11). Because there is no "and" at the end of paragraph (11), this amendment was not executed.

[2] So in law. The word "and" should probably be stricken. See P.L. 101–226, sec. (8)6), 103 Stat. 1932.

[3] So in law. One period probably should be stricken.

necessary to reflect changes without filing a new application. Such application shall—

(A) set forth a comprehensive plan for programs to be carried out by the applicant under this part;

(B) contain an estimate of the cost for the establishment and operation of such programs;

(C) establish or designate a local or substate regional advisory council on drug abuse education and prevention composed of individuals who are parents, teachers, officers of State and local government, medical professionals, representatives of the law enforcement community, community-based organizations, and other groups with interest and expertise in the field of drug abuse education and prevention;

(D) describe the extent of the current drug and alcohol problem in the schools of the applicant;

(E) describe the manner in which the applicant will coordinate its efforts under this part with other programs in the community related to drug abuse education, prevention, treatment, and rehabilitation and with appropriate community-based organizations;

(F) provides assurances that the applicant will coordinate its efforts with appropriate State and local drug and alcohol abuse, health, and law enforcement agencies, in order to effectively conduct drug and alcohol abuse education, intervention, and referral for treatment and rehabilitation for the student population;

(G) provide assurances that the Federal funds made available under this part shall be used to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purposes described in this part, and in no case supplant such funds;

(H) provide assurances of compliance with the provisions of this part;

(I) agree to keep such records and provide such information to the State educational agency as reasonably may be required for fiscal audit and program evaluation, consistent with the responsibilities of the State agency under this part;

(J) describe how the applicant will ensure that the schools will be an important part of a community-wide effort to achieve a drug-free population;

(K) describe how, to the extent practicable, assistance provided under this title will be used to provide trained counselors, social workers, psychologists, and nurses to carry out drug abuse prevention and intervention activities in addition to any individuals so employed by the applicant on the date of the enactment of the Drug-Free Schools and Communities Act Amendments of 1989;

(L) provide assurances that the applicant will maintain and make available for distribution a list of local resources for substance abuse counseling and treatment;

(M) provide assurances that the applicant has reviewed curricula that it intends to use and that such curricula will meet the needs of the schools served by the applicant;

(N) describe how, to the extent practicable, assistance provided under the grant will be used to provide drug abuse counseling services to children of all ages, including students in the elementary schools;

(O) describe how, to the extent practicable, activities assisted under the grant will be coordinated with local law enforcement agencies in order to improve security on school grounds and in the surrounding community and to educate students about—

(i) the dangers of drug use and drug-related violence;

(ii) the penalties for possession of or trafficking in illegal drugs;

(iii) techniques for resisting drug abuse; and

(iv) the importance of cooperating with law enforcement officials in eliminating drug abuse and identifying individuals who supply drugs to students;

(P) describe the training that will be provided for teachers and other personnel who are involved in the implementation of programs to be carried out by the applicant under this part; and

(Q) include such other information and assurances as the State educational agency reasonably determines to be necessary.

(b) PROGRESS REPORTS.—(1) Each applicant shall annually submit to the State educational agency a progress report on the implementation of its plan. The progress report shall include—

(A) the applicant's significant accomplishments under the plan during the preceding year;

(B) the extent to which the original objectives of the plan are being achieved;

(C) a discussion of the method used by the applicant to evaluate the effectiveness of its drug education program carried out under its plan; and

(D) the results of the evaluation described in subparagraph (C).

(2) If the State educational agency determines that the applicant's progress report shows that it is not making reasonable progress toward accomplishing the objectives of its plan and the purposes of this Act, the State educational agency shall provide such technical assistance to the applicant as may be necessary.

(20 U.S.C. 3196)

SEC. 5127. REPORTS.

(a) STATE REPORTS.—Each State shall submit to the Secretary a biennial report that contains information on the State and local programs conducted with assistance furnished under this title. Each such report shall—

(1) be in a standard format;

(2) request standard information as prescribed by the Secretary; and

(3) include—

(A) a description of the drug and alcohol problem in the elementary and secondary schools in the State as of the date of the report;

(B) a description of the range of drug and alcohol policies in the schools in the State;

(C) the number of individuals served by this title;

(D) [1]the demographic characteristics of populations served;

(E) types of service provided and duration of the services;

(F) information on how the State has targeted the populations listed under section 5122(b)(2);

(G) a description of the model drug and alcohol abuse education and prevention programs in the State that have been demonstrated to be effective; and

(H) an evaluation of the effectiveness of State and local drug and alcohol abuse education and prevention programs.

(b) LOCAL REPORTS.—Each State educational agency shall request the information required to prepare the biennial reports required by subsection (a) as part of the local educational agency application and progress reports required by section 5126. Information requested under the preceding sentence shall be limited to information described in section 5126 and subsection (a).

(20 U.S.C. 3197)

PART C—TRAINING OF TEACHERS, COUNSELORS, AND SCHOOL PERSONNEL

SEC. 5128. GRANTS FOR TRAINING OF TEACHERS.

(a) IN GENERAL.—From amounts appropriated pursuant to the authorization contained in section 5111(a)(2), the Secretary shall make grants to State educational agencies, local educational agencies, and institutions of higher education for teachers training programs in accordance with this section.

(b) USE OF FUNDS.—Amounts made available under grants under this section shall be used to establish, expand, or enhance programs and activities for the training of elementary and secondary school teachers and administrators, and other elementary and secondary school personnel concerning drug and alcohol abuse education and prevention.

(20 U.S.C. 3201)

SEC. 5129. GRANTS FOR TRAINING OF COUNSELORS.

(a) IN GENERAL.—

(1) From amounts appropriated pursuant to the authorization contained in section 5111(a)(2), the Secretary shall give priority to making a substantial number of grants to qualified State educational agencies, local educational agencies, and institutions of higher education for programs to train counselors, social workers, psychologists, or nurses in accordance with this section.

(2) The Secretary may also make a grant under this part to any private nonprofit agency that has an agreement with a local educational agency to provide training in drug abuse

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[1] So in law.

counseling for individuals who will provide such counseling in the schools of such local educational agency.

(b) USE OF FUNDS.—Amounts made available under grants under this section shall be used to establish, expand, or enhance programs and activities for the training of counselors, social workers, psychologists, or nurses who are providing or will provide drug abuse prevention, counseling, or referral services in elementary and secondary schools.

(20 U.S.C. 3202)

SEC. 5130. APPLICATIONS.

(a) IN GENERAL.—Any State or local educational agency, institution of higher education, or consortium of such agencies or institutions that desires to receive a grant under this part in any fiscal year submit[1] an application to the Secretary at such time and in such manner as the Secretary may prescribe.

(b) CONTENTS.—Each application submitted under this section shall—

(1) set forth the activities and programs to be carried out with funds paid under this part;

(2) contain an estimate of the cost for the establishment and operation to such activities and programs;

(3) provide assurances that the Federal funds made available under this section shall be used to supplement, and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purpose described in this part, and in no case to supplant such funds;

(4) provide assurances of compliance with this part;

(5) in the case of a grant under section 5129, contain a discussion of how the training to be assisted under the grant will assist the applicant to—

(A) increase the number of school personnel who are trained to provide drug abuse counseling services; and

(B) improve the quality of drug abuse counseling services offered by the applicant or the local educational agency concerned; and

(6) include such other information and assurances as the Secretary reasonably determines to be necessary.

(20 U.S.C. 3203)

PART D—NATIONAL PROGRAMS

SEC. 5131. GRANTS TO INSTITUTIONS OF HIGHER EDUCATION.

(a) In General.—(1) From sums reserved by the Secretary under section 5112(a)(4) for the purposes of this section, the Secretary shall make grants to or enter into contracts with institutions of higher education or consortia of such institutions for drug abuse education and prevention programs under this section.

(2) The Secretary shall make financial assistance available on a competitive basis under this section. An institution of higher education or consortium of such institutions which desires to receive a grant or enter into a contract under this section shall submit an

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[1] So in law. Probably should be "shall submit".

application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require in accordance with regulations.

(3) The Secretary shall make every effort to ensure the equitable participation of private and public institutions of higher education (including community and junior colleges) and to ensure the equitable geographic participation of such institutions. In the award of grants and contracts under this section, the Secretary shall give appropriate consideration to colleges and universities of limited enrollment.

(4) Not less than 50 percent of sums available for the purposes of this section shall be used to make grants under subsection (c).

(b) Grants for Model Demonstration Programs.—Grants shall be available for model demonstration programs to be coordinated with local elementary and secondary schools for the development and implementation of quality drug abuse education curricula. In the award of grants under this subsection, the Secretary shall give priority consideration to joint projects involving faculty of institutions of higher education and teachers in elementary and secondary schools in the practical application of the findings of educational research and evaluation and the integration of such research into drug abuse education and prevention programs.

(c) Grants for Programs of Drug Abuse Education and Prevention.—Grants shall be available under this subsection to develop, implement, operate, and improve programs of drug abuse education and prevention (including rehabilitation referral) for students enrolled in institutions of higher education.

(20 U.S.C. 3211)

SEC. 5132. FEDERAL ACTIVITIES.

(a) Use of Reserved Funds.—From sums reserved by the Secretary under section 5112(a)(5), the Secretary shall carry out the purposes of this section.

(b) Federal Drug Abuse Education and Prevention Activities.—The Secretary of Education in conjunction with the Secretary of Health and Human Services shall carry out Federal education and prevention activities on drug abuse. The Secretary shall coordinate such drug abuse education and prevention activities with other appropriate Federal activities related to drug abuse. The Secretary shall directly or through grants, cooperative agreements, or contracts—

(1) provide information on drug abuse education and prevention to the Secretary of Health and Human Services for dissemination by the clearinghouse for alcohol and drug abuse information established under section 509 of the Public Health Service Act;

(2) facilitate the utilization of appropriate means of communicating to students at all educational levels about the dangers of drug use and alcohol abuse, especially involving the participation of entertainment personalities and athletes who are recognizable role models for many young people;

(3) develop, publicize the availability of, and widely disseminate the most readily available, accurate, and up-to-date audio-visual and other curricular materials for drug abuse edu-

cation and prevention programs in elementary and secondary schools throughout the Nation; and coordinate activities that complement media efforts of groups such as the Partnership for a Drug-Free America, professional and amateur sports organizations, and other public service organizations;

(4) provide technical assistance to State, local, and intermediate education agencies and consortia in the selection and implementation of drug abuse education and prevention curricula, approaches, and programs to address most effectively the needs of the elementary and secondary schools served by such agencies;

(5) identify research and development priorities with regard to school-based drug abuse education and prevention, particularly age-appropriate programs focusing on kindergarten through grade 4;

(6) use private nonprofit organizations to develop innovative strategies to communicate antidrug abuse messages to youths and to eliminate drug abuse from the communities of the Nation; and

(7) as necessary, evaluate programs assisted under this title.

(c) STUDIES.—(1) The Secretary of Education in conjunction with the Secretary of Health and Human Services shall conduct, directly or by contract, a study of the relationship between drug and alcohol abuse and youth suicide and shall submit a report of the findings of such studies to the President and to the appropriate committees of the Congress not later than 1 year after the date of the enactment of this title.

(2) The Secretary shall summarize and consolidate the biennial reports submitted under section 5127(a) and shall transmit such summary and consolidation, together with recommendations for future education and prevention efforts, to the Associate Director of the Office of National Drug Control Policy, and to the Congress.

(3)(A) The Secretary, in consultation with the Secretary of Health and Human Services, shall conduct an independent evaluation, directly or by contract, of a representative sample of programs assisted under this title and shall identify successful projects which may be replicated by other local educational agencies throughout the country. The Secretary shall submit to the Congress—

(i) an interim report containing the results of such evaluation and a description of such projects not later than October 1, 1991, and

(ii) a final report containing such information not later than January 1, 1994.

(B) The Secretary shall ensure that the information contained in the reports required by subparagraph (A) is submitted for dissemination to the National Diffusion Network and through the regional centers established under section 5135.

(20 U.S.C. 3212)

SEC. 5133. PROGRAMS FOR INDIAN YOUTH.

(a) USE OF RESERVED FUNDS.—From the funds reserved pursuant to section 5112(a)(2), the Secretary shall make payments and grants and enter into other financial arrangements for Indian programs in accordance with this subsection.

(b) FINANCIAL ARRANGEMENTS.—The Secretary of Education shall enter into such financial arrangements as the Secretary determines will best carry out the purposes of this title to meet the needs of Indian children on reservations serviced by elementary and secondary schools funded for Indian children by the Department of the Interior. Such arrangements shall be made pursuant to an agreement between the Secretary of Education and the Secretary of the Interior containing such assurances and terms as they determine will best achieve the purposes of this title.

(c) GRANT AND CONTRACT AUTHORITY.—The Secretary of Education may, upon request of any Indian tribe which is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act or under the Act of April 16, 1934, enter into grants or contracts with any tribal organization of any such Indian tribe to plan, conduct, and administer programs which are authorized and consistent with the purposes of this title (particularly programs for Indian children who are school dropouts), except that such grants or contracts shall be subject to the terms and conditions of section 102 of the Indian Self-Determination Act and shall be conducted in accordance with sections 4, 5, and 6 of the Act of April 16, 1934, which are relevant to the programs administered under this paragraph.

(d) ADDITIONAL PROGRAMS.—Programs funded under this subsection[1] shall be in addition to such other programs, services, and activities as are made available to eligible Indians under other provisions of this title.

(20 U.S.C. 3213)

SEC. 5134. PROGRAMS FOR HAWAIIAN NATIVES.

(a) GENERAL AUTHORITY.—From the funds reserved pursuant to section 5112(a)(3), the Secretary shall make grants to or enter into cooperative agreements or contracts with organizations primarily serving and representing Hawaiian natives which are recognized by the Governor of the State of Hawaii to plan, conduct, and administer programs, or portions thereof, which are authorized by and consistent with the provisions of this title for the benefit of Hawaiian natives.

(b) DEFINITION OF "HAWAIIAN NATIVE".—For the purposes of this section, the term "Hawaiian native" means any individual any of whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.

(20 U.S.C. 3214)

SEC. 5135. REGIONAL CENTERS.

The Secretary, through grants, cooperative agreements, or contracts, shall use the amounts made available to carry out this section for each fiscal year to maintain 5 regional centers to—

(1) train school teams to assess the scope and nature of their drug abuse and alcohol abuse problems, mobilize the community to address such problems, design appropriate curricula, identify students at highest risk and refer them to appropriate

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[1] So in law. Probably should be "section".

treatment, and institutionalize long-term effective drug and alcohol abuse programs, including long-range technical assistance, evaluation, and followup on such training;

(2) assist State educational agencies in coordinating and strengthening drug abuse and alcohol abuse education and prevention programs;

(3) assist local educational agencies and institutions of higher education in developing appropriate preservice and inservice training programs for educational personnel; and

(4) evaluate and disseminate information on effective drug abuse and alcohol abuse education and prevention programs and strategies.

(20 U.S.C. 3215)

SEC. 5136. EMERGENCY GRANTS.

(a) PROGRAM AUTHORIZED.—Except as provided under subsection (d), the Secretary, in consultation with the Attorney General and the Secretary of Health and Human Services, shall make grants to eligible local educational agencies that demonstrate significant need for additional assistance for purposes of combating drug and alcohol abuse by students served by such agencies.

(b) ELIGIBLE AGENCIES.—A local educational agency shall be eligible to receive a grant under this section if such agency—

(1) receives assistance under section 1006 or meets the criteria of clauses (i) and (ii) of section 1006(a)(1)(A); and

(2) serves an area—

(A) in which there is a large number or a high percentage of—

(i) arrests for, or while under the influence of, drugs or alcohol; or

(ii) convictions of youths for drug or alcohol-related crimes;

(B) in which there is a large number or high percentage of referrals of youths to drug and alcohol abuse treatment and rehabilitation programs; and

(C) that has a significant drug and alcohol abuse problem, as indicated by other appropriate data.

(c) AMOUNT OF GRANTS.—Each grant awarded under this section shall be in an amount that is not less than $100,000 and not more than $1,000,000.

(d) FISCAL YEAR 1990.—For fiscal year 1990, funds available for the purposes of this section shall be allocated to the chief executive officer of each State for distribution through State educational agencies to local educational agencies.

(20 U.S.C. 3216)

SEC. 5137. DRUG-FREE SCHOOL ZONES DEMONSTRATION PROGRAM.

(a) ESTABLISHMENT OF DEMONSTRATION PROGRAM FOR DRUG-FREE SCHOOL ZONES.—The Secretary of Education is authorized to establish a demonstration program to establish and maintain drug-free school zones as described in section 5122(a)(8). In carrying out the demonstration program under this section, the Secretary shall make grants to local educational agencies, intermediate educational agencies, and consortia.

(b) EVALUATIONS.—The Secretary shall evaluate programs under this section.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 to carry out the purposes of this section. Funds appropriated under this section are authorized to remain available until expended.

(20 U.S.C. 3217)

PART E—GENERAL PROVISIONS

SEC. 5141. DEFINITIONS.

(a) GENERAL RULE.—Except as otherwise provided, the terms used in this title shall have the meaning provided under section 1471 of title 1 of this Act.

(b) SPECIFIC DEFINITIONS.—For the purposes of this title, the following terms have the following meanings:

(1) The term "drug abuse education and prevention" means prevention, early intervention, rehabilitation referral, and education related to the abuse of alcohol and the use and abuse of controlled, illegal, addictive, or harmful substances, including anabolic steroids.[1]

(2) The term "illicit drug use" means the use of illegal drugs and the abuse of other drugs and alcohol, including anabolic steroids.[1]

(3) The term "Secretary" means the Secretary of Education.

(4) The term "school-age population" means the population aged 5 through 17 (inclusive), as determined by the Secretary on the basis of the most recent satisfactory data available from the Department of Commerce.

(5) The term "school dropout" means an individual aged 5 through 18 who is not attending any school and who has not received a secondary school diploma or a certificate from a program of equivalency for such a diploma. This definition shall not apply after the Secretary defines such term as required by section 6201 of this Act.

(6) The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, or the Virgin Islands.

(7) The term "institution of higher education" means an educational institution in any State which—

(A) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(B) is legally authorized within such State to provide a program of education beyond high school;

(C) provides an educational program for which it awards a bachelor's degree, or provides not less than a 2-year program which is acceptable for full credit toward such a degree, or offers a 2-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge;

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[1] Public Law 101-226, 103 Stat. 1935, sec. 16, amended sec. 5141(1), (2) and (10). The amendments probably should have been made to sec. 5141(b)(1), (2), and (10).

(D) is a public or other nonprofit institution; and

(E) is accredited by a nationally recognized accrediting agency or association listed by the Secretary pursuant to this paragraph or, if not so accredited, is an institution whose credits are accepted, on transfer, by not less than 3 institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited, except that in the case of an institution offering a 2-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or technological fields which requires the understanding and application of basic engineering, scientific, or mathematical principles or knowledge if the Secretary determines that there is no nationally recognized accrediting agency or association qualified to accredit such institutions, the Secretary shall appoint an advisory committee, composed of persons specially qualified to evaluate training provided by such institutions, which shall prescribe the standards of content, scope, and quality which must be met in order to qualify such institutions to participate under this title and shall also determine whether particular institutions meet such standards. For the purposes of this paragraph the Secretary shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of education or training offered.

(8) The term "nonprofit" as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(9) The term "consortium" (except in section 5131) means a consortium of local educational agencies or of one or more intermediate educational agencies and one or more local educational agencies.

(10)[1] The term "school personnel" includes teachers, administrators, guidance counselors, social workers, psychologists, nurses, librarians, and other support staff who are employed by a school or who perform services for the school on a contractual basis.

(20 U.S.C. 3221)

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[1] See footnote on previous page.

SEC. 5142. FUNCTIONS OF THE SECRETARY OF EDUCATION.

(a) ADMINISTRATION.—The Secretary shall be responsible for the administration of the programs authorized by this title.

(b) MODEL CRITERIA AND FORMS.—The Secretary, in consultation with a representative sample of national educational organizations, shall develop model criteria and forms for the collection of data and information with respect to programs assisted under this title. In order to enable schools and community-based organizations to share uniform data and information with respect to programs assisted under this title, the model criteria and forms shall be disseminated to the regional centers established under section 5135 as a resource for State and local educational programs.

(c) APPLICABILITY OF GENERAL EDUCATION PROVISIONS ACT.—Except as otherwise provided, the General Education Provisions Act shall apply to programs authorized by this title.

(20 U.S.C. 3222)

SEC. 5143. PARTICIPATION OF CHILDREN AND TEACHERS FROM PRIVATE NONPROFIT SCHOOLS.

(a) PARTICIPATION OF PRIVATE SCHOOL CHILDREN.—To the extent consistent with the number of school-age children in the State or in the school attendance area of a local or intermediate educational agency or consortium receiving financial assistance under part B who are enrolled in private nonprofit elementary and secondary schools, such State, agency, or consortium shall, after consultation with appropriate private school representatives, make provision for including services and arrangements for the benefit of such children as will assure the equitable participation of such children in the purposes and benefits of this title.

(b) PARTICIPATION OF PRIVATE SCHOOL TEACHERS.—To the extent consistent with the number of school-age children in the State or in the school attendance area of a local or intermediate educational agency or consortium receiving financial assistance under part B who are enrolled in private nonprofit elementary and secondary schools, such State, agency, or consortium shall, after consultation with appropriate private school representatives, make provision, for the benefit of such teachers in such schools, for such teacher training as will assure equitable participation of such teachers in the purposes and benefits of this title.

(c) PROVISION OF SERVICES BY SECRETARY AND STATE EDUCATIONAL AGENCIES.—(1) If by reason of any provision of law a State, local, or intermediate educational agency or consortium is prohibited from providing for the participation of children or teachers from private nonprofit schools as required by subsections (a) and (b) or, if the Secretary determines that a State, local, or intermediate educational agency or consortium has substantially failed or is unwilling to provide for such participation on an equitable basis, the Secretary shall waive such requirements and shall arrange for the provision of services to such children or teachers which shall be subject to the requirements of this section. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with section 1017 of this Act.

(2) If a State educational agency determines that a local educational agency, intermediate educational agency, or consortium, as appropriate, is failing to provide for the equitable participation of children or teachers from private nonprofit elementary or secondary schools in accordance with subsection (a) or (b), the State educational agency shall waive the requirements of such subsection with respect to such local educational agency, intermediate educational agency, or consortium and make appropriate arrangements for the equitable participation of such children or teachers.

(20 U.S.C. 3223)

SEC. 5144. MATERIALS.

Any materials produced or distributed with funds made available under this title shall reflect the message that illicit drug use is wrong and harmful. The Secretary shall not review curricula and shall not promulgate regulations to carry out this subsection[1] or subparagraph[2] (1) or (4) of section 5125(a).

(20 U.S.C. 3224)

SEC. 5145. CERTIFICATION OF DRUG AND ALCOHOL ABUSE PREVENTION PROGRAMS.

(a) IN GENERAL.—Notwithstanding any other provision of law other than section 432 of the General Education Provisions Act and section 103(b) of the Department of Education Organization Act, no local educational agency shall be eligible to receive funds or any other form of financial assistance under any Federal program unless it certifies to the State educational agency that it has adopted and has implemented a program to prevent the use of illicit drugs and alcohol by students or employees that, at a minimum, includes—

(1) age-appropriate, developmentally based drug and alcohol education and prevention programs (which address the legal, social, and health consequences of drug and alcohol use and which provide information about effective techniques for resisting peer pressure to use illicit drugs or alcohol) for students in all grades of the schools operated or served by the applicant, from early childhood level through grade 12;

(2) conveying to students that the use of illicit drugs and the unlawful possession and use of alcohol is wrong and harmful;

(3) standards of conduct that are applicable to students and employees in all the applicant's schools and that clearly prohibit, at a minimum, the unlawful possession, use, or distribution of illicit drugs and alcohol by students and employees on school premises or as part of any of its activities;

(4) a clear statement that sanctions (consistent with local, State, and Federal law), up to and including expulsion or termination of employment and referral for prosecution, will be imposed on sudents and employees who violate the standards of conduct required by paragraph (3) and a description of those sanctions;

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[1] So in law. Probably should be "section".

[2] So in law. Probably should be "paragraph".

(5) information about any available drug and alcohol counseling and rehabilitation and re-entry programs that are available to students and employees;

(6) a requirement that parents, students, and employees be given a copy of the standards of conduct required by paragraph (3) and the statement of sanctions required by paragraph (4);

(7) notifying parents, students, and employees that compliance with the standards of conduct required by paragraph (3) is mandatory; and

(8) a biennial review by the applicant of its program to—

(A) determine its effectiveness and implement changes to the program if they are needed; and

(B) ensure that the sanctions required by paragraph (4) are consistently enforced.

(b) DISSEMINATION OF INFORMATION.—Each local educational agency that provides the certification required by subsection (a) shall, upon request, make available to the Secretary, the State educational agency, and to the public full information about the elements of its program required by subsection (a), including the results of its biennial review.

(c) CERTIFICATION TO SECRETARY.—Each State educational agency shall certify to the Secretary that it has adopted and has implemented a program to prevent the use of illicit drugs and the abuse of alcohol by its students and employees that is consistent with the program required by subsection (a) of this section. The State educational agency shall, upon request, make available to the Secretary and to the public full information about the elements of its program.

(d) REGULATIONS.—(1) The Secretary shall publish regulations to implement and enforce the provisions of this section, including regulations that provide for—

(A) the periodic review by State educational agencies of a representative sample of programs required by subsection (a); and

(B) a range of responses and sanctions for local educational agencies that fail to implement their programs or to consistently enforce their sanctions, including information and technical assistance, the development of a compliance agreement, and the termination of any form of Federal financial assistance.

(2) The sanctions required by subsection (a)(1)(4) may include the completion of an appropriate rehabilitation program.

(e)[1] Upon a determination by the Secretary to terminate financial assistance to any local educational agency under this section, the agency may file an appeal with an administrative law judge before the expiration of the 30-day period beginning on the date such agency is notified of the decision to terminate financial assistance under this section. Such judge shall hold a hearing with respect to such termination of assistance before the expiration of the 45-day period beginning on the date that such appeal is filed. Such judge may extend such 45-day period upon a motion by the agency concerned. The decision of the judge with respect to such termination shall be considered to be a final agency action.

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[1] So in law. This subsection probably should have a subsection heading following the designation.

(20 U.S.C. 3224a)

SEC. 5146. DISSEMINATION OF INFORMATION AND TECHNICAL ASSISTANCE.

(a) DISSEMINATION OF INFORMATION AND TECHNICAL ASSISTANCE.—The Secretary, through the National Diffusion Network established under section 1562, shall disseminate information and technical assistance with respect to drug abuse education and prevention programs of demonstrated effectiveness.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $500,000 for fiscal year 1991.

(20 U.S.C. 3224b)

PART F—DEVELOPMENT OF EARLY CHILDHOOD EDUCATION DRUG ABUSE PREVENTION MATERIALS

SEC. 5151. PROGRAM AUTHORIZED.

(a) GENERAL AUTHORITY.—The Secretary shall, in consultation with the Secretary of Health and Human Services, provide for the development of age-appropriate drug abuse education and prevention curricula, programs, and training materials for use in early child development programs, and provide for the dissemination of such materials to early child development programs, including Head Start programs, preschool programs funded under chapter 1 of title I of the Elementary and Secondary Education Act of 1965, programs funded under the Education of the Handicapped Act, such other preschool programs as the Secretary deems appropriate, and to parents of children participating in such programs.

(b) RESERVATION.—The Secretary shall, from amounts reserved under section 5112(a)(5), reserve not less than $1,000,000 to carry out the development and dissemination of the materials required by this part.

(20 U.S.C. 3227)

PART G—MISCELLANEOUS PROVISIONS

SEC. 5191. INDIAN EDUCATION PROGRAMS.

(a) PILOT PROGRAMS.—The Assistant Secretary of Indian Affairs shall develop and implement pilot programs in selected schools funded by the Bureau of Indian Affairs (subject to the approval of the local school board or contract school board) to determine the effectiveness of summer youth programs in furthering the purposes and goals of the Indian Alcohol and Substance Abuse Prevention Act of 1986. The Assistant Secretary shall defray all costs associated with the actual operation and support of the pilot programs in the school from funds appropriated for this section. For the pilot programs there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1987, 1988, and 1989.

(b) USE OF FUNDS.—Federal financial assistance made available to public or private schools because of the enrollment of Indian children pursuant to—

(1) the Act of April 16, 1934, as amended by the Indian Education Assistance Act (25 U.S.C. 452 et seq.),

(2) the Indian Elementary and Secondary School Assistance Act (20 U.S.C. 241aa et seq.), and

(3) the Indian Education Act (20 U.S.C. 3385),

may be used to support a program of instruction relating to alcohol and substance abuse prevention and treatment.

(20 U.S.C. 3231)

SEC. 5192. TRANSITION.

Notwithstanding section 1003 of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, a State educational agency may allot funds for each of the fiscal years 1987 and 1988 to local and intermediate educational agencies and consortia under section 4124 of the Drug-Free Schools and Communities Act of 1986 on the basis of their relative numbers of children in the school-age population.

(20 U.S.C. 3232)

SEC. 5193. IDENTIFICATION OF FEDERALLY ASSISTED PROGRAMS.

Every local recipient of funds under this title shall, in any publication or public announcement, clearly identify any program assisted under this title as a Federal program funded under the Drug-Free Schools and Communities Act of 1986.

(20 U.S.C. 3233)

EDUCATION OF THE DEAF ACT OF 1986

Education of the Deaf Act of 1986

AN ACT To authorize quality educational programs for individuals who are deaf, to foster improved educational programs for individuals who are deaf throughout the United States, to reenact and codify certain provisions of law relating to the education of individuals who are deaf, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Education of the Deaf Act of 1986".

(20 U.S.C. 4301 note) Enacted August 4, 1986, P.L. 99–371, 100 Stat. 781.

TITLE I—GALLAUDET UNIVERSITY; NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

PART A—GALLAUDET UNIVERSITY

SEC. 101. CONTINUATION OF GALLAUDET COLLEGE AS GALLAUDET UNIVERSITY.

(a) GALLAUDET UNIVERSITY.—The Gallaudet College created by an Act entitled "An Act to amend the charter of the Columbia Institution for the Deaf, change its name, define its corporate powers, and provide for its organization and administration, and for other purposes", approved June 18, 1954, is continued as a body corporate under the name of Gallaudet University. Hereafter Gallaudet College shall be known as Gallaudet University and have perpetual succession and shall have the powers and be subject to the limitations contained in this Act.

(b) PURPOSE.—The purpose of Gallaudet University shall be to provide education and training to individuals who are deaf and otherwise to further the education of individuals who are deaf.

(20 U.S.C. 4301) Enacted August 4, 1986, P.L. 99–371, sec. 101, 100 Stat. 781.

SEC. 102. PROPERTY RIGHTS.

(a) PROPERTY RIGHTS DESCRIBED.—Gallaudet University is vested with all the property and the rights of property, and shall have and be entitled to use all authority, privileges, and possessions and all legal rights which it has, or which it had or exercised under any former name, including the right to sue and be sued and to own, acquire, sell, mortgage, or otherwise dispose of property it may own now or hereafter acquire. Gallaudet University shall also be subject to all liabilities and obligations now outstanding against the corporation under any former name.

(b) DISPOSAL OF REAL PROPERTY.—(1) With the approval of the Secretary of Education, the Board of Trustees of Gallaudet University may convey fee simple title by deed, convey by quitclaim deed, mortgage, or otherwise dispose of any or all real property title to which is vested in Gallaudet University, Gallaudet College, the Columbia Institution for the Deaf, or any predecessor corporation.

(2) The proceeds of any such disposition shall be considered a part of the capital structure of the corporation, and may be used solely for the acquisition of real estate for the use of the corporation, for the construction, equipment, or improvement of buildings for such use, or for investment purposes, but if invested only the income from the investment may be used for current expenses of the corporation.

(20 U.S.C. 4302) Enacted August 4, 1986, P.L. 99–371, sec. 102, 100 Stat. 781–782.

SEC. 103. BOARD OF TRUSTEES.

(a) COMPOSITION OF THE BOARD.—(1) Gallaudet University shall be under the direction and control of a Board of Trustees, composed of twenty-one members selected as follows:

(A) three public members of whom (i) one shall be a United States Senator appointed by the President of the Senate, and (ii) two shall be Representatives appointed by the Speaker of the House of Representatives; and

(B) eighteen other members, all of whom shall be elected by the Board of Trustees and of whom one shall be elected pursuant to regulations of the Board of Trustees, on nomination by the Gallaudet University Alumni Association for a term of three years.

The members appointed from the Senate and House of Representatives shall be appointed for a term of two years at the beginning of each Congress, shall be eligible for reappointment, and shall serve until their successors are appointed.

(2) The Board of Trustees shall have the power to fill any vacancy in the membership of the Board except for public members. Nine trustees shall constitute a quorum to transact business. The Board of Trustees, by vote of a majority of its membership, is authorized to remove any member of their body (except the public members) who may refuse or neglect to discharge the duties of a trustee, or whose removal would, in the judgment of said majority, be to the interest and welfare of said corporation.

(b) POWERS OF THE BOARD.—The Board of Trustees is authorized to—

(1) make such rules, policies, regulations, and bylaws, not inconsistent with the Constitution and laws of the United States, as may be necessary for the good government of Gallaudet University, for the management of the property and funds of such corporation (including the construction of buildings and other facilities) and for the admission, instruction, care, and discharge of students;

(2) provide for the adoption of a corporate seal and for its use;

(3) fix the date of holding their annual and other meetings;

(4) appoint a president and establish policies, guidelines, and procedures related to the appointments, the salaries, and the dismissals of professors, instructors, and other employees of Gallaudet University, including the adoption of a policy of outreach and recruitment to employ and advance in employ-

ment qualified individuals with disabilities, particularly individuals who are deaf or individuals who are hard of hearing.[1]

(5) elect a chairperson and other officers and prescribe their duties and terms of office, and appoint an executive committee to consist of five members, and vest the committee with such of its powers during periods between meetings of the Board as the Board deems necessary;

(6) establish such schools, departments, and other units as the Board of Trustees deems necessary to carry out the purpose of Gallaudet University;

(7) confer such degrees and marks of honor as are conferred by colleges and universities generally, and issue such diplomas and certificates of graduation as, in its opinion, may be deemed advisable, and consistent with academic standards;

(8) subject to the provisions of section 203, control expenditures of all moneys appropriated by Congress for the benefit of Gallaudet University; and

(9) control the expenditure and investment of any moneys or funds or property which Gallaudet University may have or may receive from sources other than appropriations by Congress.

(20 U.S.C. 4303) Enacted August 4, 1986, P.L. 99–371, sec. 103, 100 Stat. 782–783; amended October 16, 1992, P.L.102–421, secs. 101(c), 111, 106 Stat. 2152.

SEC. 104. ELEMENTARY AND SECONDARY EDUCATIONAL PROGRAMS.

(a) General Authority.—(1)(A) The Board of Trustees of Gallaudet University is authorized, in accordance with the agreement under section 105, to maintain and operate exemplary elementary and secondary education programs, projects, and activities for the primary purpose of developing, evaluating, and disseminating innovative curricula, instructional techniques and strategies, and materials that can be used in various educational environments serving individuals who are deaf and individuals who are hard of hearing throughout the Nation.

(B) The elementary and secondary programs described in subparagraph (A) shall serve students with a broad spectrum of needs, including students who are lower achieving academically, who come from non-English speaking homes, who have secondary disabilities, who are members of minority groups, or who are from rural areas.

(C) The elementary and secondary programs described in subparagraph (A) shall include—

(i) the Kendall Demonstration Elementary School, to provide day facilities for elementary education for individuals who are deaf, to provide such individuals with the vocational, transitional, independent living, and related services they need to function independently, and to prepare such individuals for high school and other secondary study; and

(ii) the Model Secondary School for the Deaf, to provide day and residential facilities for secondary education for individuals who are deaf, to provide such individuals with the vocational, transitional, independent living, and related services they need to function independently, and to prepare such individuals for college, other postsecondary opportunities, or the workplace.

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[1] So in law. See section 111(2)(B) of Public Law 102–421. Probably should be a semicolon.

(2) The Model Secondary School for the Deaf may provide residential facilities for students enrolled in the school—

(A) who live beyond a reasonable commuting distance from the school; or

(B) for whom such residency is necessary for them to receive a free appropriate public education within the meaning of part B of the Individuals with Disabilities Education Act.

(b) ADMINISTRATIVE REQUIREMENTS.—(1) The elementary and secondary education programs shall—

(A) provide technical assistance and outreach throughout the Nation to meet the training and information needs of parents of infants and children who are deaf or hard of hearing;

(B) provide technical assistance and training to personnel for use in teaching (i) students who are deaf or hard of hearing, in various educational environments, and (ii) students who are deaf or hard of hearing with a broad spectrum of needs as described in subsection (a); and

(C) establish and publish priorities for research, development, and demonstration through a process that allows for public input;

(2) To the extent possible, the elementary and secondary education programs shall provide the services required under paragraph (1) in an equitable manner, based on the national distribution of students who are deaf or hard of hearing in educational environments as determined by the Secretary for purposes of section 618(b) of the Individuals with Disabilities Education Act. Such educational environments shall include—

(A) regular classes;

(B) resource rooms;

(C) separate classes;

(D) separate, public or private, nonresidential schools; and

(E) separate, public or private, residential schools and homebound or hospital environments.

(3) If a local educational agency, intermediate educational unit, or State educational agency refers a child to, or places a child in, one of the elementary or secondary education programs to meet its obligation to make available a free appropriate public education under part B of the Individuals with Disabilities Education Act, the agency or unit shall be responsible for ensuring that the special education and related services provided to the child by the education program are in accordance with part B of that Act and that the child is provided the rights and procedural safeguards under section 615 of that Act.

(4) If the parents or guardian places a child in one of the elementary or secondary education programs, the University shall—

(A) notify the appropriate local educational agency, intermediate educational unit, or State educational agency of that child's attendance in the programs;

(B) work with local educational agencies, intermediate educational units, and State educational agencies, where appropriate, to ensure a smooth transfer of students to and from those programs; and

(C) provide the child a free appropriate public education in accordance with part B of the Individuals with Disabilities Education Act and procedural safeguards in accordance with the following provisions of section 615 of such Act:

(i) Subparagraphs (A), (C), (D), and (E) of paragraph (1) of subsection (b), and paragraph (2) of such subsection.

(ii) Subsection (d), except the portion of paragraph (4) requiring that findings and decisions be transmitted to a State advisory panel.

(iii) Paragraphs (1) through (3) of subsection (e). Paragraph (3) of such subsection is not applicable to decisions by the University to refuse to admit or to dismiss a child, except that, before dismissing any child, the University shall give at least 60 days notice to the child's parents and to the local educational agency in which the child resides.

(iv) Subsection (f).

(20 U.S.C. 4034) Enacted October 16, 1992, P.L. 102–421, sec.112, 106 Stat. 2152.

SEC. 105. AGREEMENT WITH GALLAUDET UNIVERSITY.

(a) GENERAL AUTHORITY.—The Secretary and Gallaudet University shall establish, within 1 year after enactment of the Education of the Deaf Act Amendments of 1992, a new agreement governing the operation and national mission activities, including construction and provision of equipment, of the elementary and secondary education programs at the University. The Secretary and the University shall periodically update the agreement as determined to be necessary by the Secretary or the University.

(b) PROVISIONS OF AGREEMENT.—The agreement shall—

(1) provide that Federal funds appropriated for the benefit of the Kendall Demonstration Elementary School and the Model Secondary School for the Deaf will be used only for the purposes for which appropriated and in accordance with the applicable provisions of this Act and such agreement;

(2) provide that the University shall make an annual report, to be part of the report required under section 204, to the Secretary on the operations and national mission activities of the elementary and secondary education programs, including such other information as the Secretary may consider necessary;

(3) provide that in the design and construction of any facilities, maximum attention will be given to innovative auditory and visual devices and installations appropriate for the educational functions of such facilities;

(4) provide that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on any construction aided by Federal funds appropriated for the benefit of the Kendall Demonstration Elementary School and the Model Secondary School for the Deaf will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a–276a–5) commonly referred to as the Davis-Bacon Act; and the Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set

forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C. App.) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c); and

(5) include such other conditions as the Secretary or the University considers necessary to carry out the purposes of this part.

(20 U.S.C. 4305) Enacted October 16, 1992, P.L. 102–421, sec. 113, 106 Stat. 2154.

PART B—NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

SEC. 111. AUTHORITY.

For the purpose of providing a residential facility for postsecondary technical training and education for individuals who are deaf in order to prepare them for successful employment, the institution of higher education with which the Secretary has an agreement under this title is authorized to operate and maintain a National Technical Institute for the Deaf.[1]

(20 U.S.C. 4331) Enacted August 4, 1986, P.L. 99–371, sec. 201, 100 Stat. 784–785.

SEC. 112. AGREEMENT FOR THE INSTITUTE.

(a) GENERAL AUTHORITY.—(1) The Secretary is authorized to establish or continue an agreement with an institution of higher education for the establishment and operation, including construction and equipment, of a National Technical Institute for the Deaf. The Secretary, in considering proposals from institutions of higher education to enter into an agreement under this Act, shall give preference to institutions which are located in metropolitan industrial areas.

(2) The Secretary, and the institution of higher education with which the Secretary has an agreement under this section, shall, within 1 year after the enactment of the Education of the Deaf Act Amendments of 1992, assess the need for modification of the agreement. The Secretary and the institution of higher education with which the Secretary has an agreement under this section shall also periodically update the agreement as determined to be necessary by the Secretary or the institution.

(b) PROVISIONS OF AGREEMENT.—The agreement shall—

(1) provide that Federal funds appropriated for the benefit of the Institute will be used only for the purposes for which appropriated and in accordance with the applicable provisions of this Act and the agreement made pursuant thereto;

(2) provide that the Board of Trustees or other governing body of the institution, subject to the approval of the Secretary, will appoint an advisory group to advise the Director of the Institute in formulating and carrying out the basic policies governing its establishment and operation, which group shall include individuals who are professionally concerned with education and technical training at the postsecondary school level, persons who are professionally concerned with activities relating to education and training of individuals who are deaf, and

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[1] Public Law 100–202 (101 Stat. 1329–281) and Public Law 100–436 (102 Stat. 1706) each provide in part that "none of the funds provided herein may be used to subsidize the tuition of foreign students".

members of the public familiar with the need for services provided by the Institute;

(3) provide that the Board of Trustees or other governing body of the institution will prepare and submit to the Secretary an annual report, including an accounting of all indirect costs paid to the institution of higher education under the agreement with the Secretary, which report the Secretary shall transmit to the Committee on Education and Labor of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, with such comments and recommendations as the Secretary may deem appropriate;

(4) include such other conditions as the Secretary deems necessary to carry out the purposes of this part; and [1]

(5) provide that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on any construction aided by Federal funds appropriated for the benefit of the Institute will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a–276a–5) commonly referred to as the Davis-Bacon Act; and the Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C. App.) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c). [1]

(6) establish a policy of outreach and recruitment to employ and advance in employment qualified individuals with disabilities, particularly individuals who are deaf or individuals who are hard of hearing.

(c) LIMITATION.—If within twenty years after the completion of any construction (except minor remodeling or alteration) for which such funds have been paid—

(1) the facility ceases to be used for the purposes for which it was constructed or the agreement is terminated, unless the Secretary determines that there is good cause for releasing the institution from its obligation, or

(2) the institution ceases to be the owner of the facility,

the United States shall be entitled to recover from the applicant or other owner of the facility an amount which has the same ratio with respect to the current market value of the facility as the amount of Federal funds expended for construction of such facility bears to the total cost of construction of the facility. The current market value of the facility shall be determined by agreement of the parties or by action brought in the United States district court for the district in which the facility is situated.

(20 U.S.C. 4332) Enacted August 4, 1986, P.L. 99–371, sec. 202, 100 Stat. 785–786; amended October 16, 1992, P.L. 102–421, sec. 121, 106 Stat 2155.

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[1] So in law. See section 121(3) of Public Law 102–421. The word "and" at the end of paragraph (4) should probably be stricken, and the period at the end of paragraph (5) should probably be replaced by "; and".

TITLE II—GENERAL PROVISIONS

SEC. 201. DEFINITIONS.

As used in this Act—

(1) The term "international student" means an individual who—

(A) is not a citizen or national of, or lawfully admitted for permanent residence in, the United States;

(B) does not provide evidence from the Immigration and Naturalization Service that he or she is in the United States for other than temporary purposes with the intention of becoming a citizen of, or lawfully admitted for permanent residence in, the United States; or

(C) is not lawfully admitted for permanent residence in American Samoa, Guam, Palau (but only until the Compact of Free Association with Palau takes effect), the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, or the Virgin Islands.

(2) The term "construction" includes construction and initial equipment of new buildings, and expansion, remodeling, and alteration of existing buildings and equipment therein, including architect's services, but excluding off-site improvements.

(3) The term "elementary school" means a school which provides education for children who are deaf or hard-of-hearing from the age of onset of deafness to age fifteen, inclusive, but not beyond the eighth grade or its equivalent.

(4) The term "institution of higher education" means an educational institution in any State which (A) admits as regular students only individuals having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate; (B) is legally authorized within such State to provide a program of education beyond secondary education; (C) provides an educational program for which it awards a bachelor's degree; (D) includes one or more professional or graduate schools; (E) is a public or nonprofit private institution; and (F) is accredited by a nationally recognized accrediting agency or association. For the purpose of subparagraph (F), the Secretary shall publish a list of nationally recognized accrediting agencies or associations which the Secretary determines to be reliable authority as to the quality of training offered.

(5) The term "secondary school" means a school which provides education in grades nine through twelve, inclusive.

(6) The term "Secretary" means the Secretary of Education.

(7) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and Palau (but only until the Compact of Free Association with Palau takes effect).

(8) The term "NTID" means the National Technical Institute for the Deaf.

(9) The term "University" means Gallaudet University.

(20 U.S.C. 4351) Enacted August 4, 1986, P.L. 99–371, sec. 401, 100 Stat. 789; amended October 16, 1992, P.L. 102–421, secs. 101(b)(6), 131, 151(b), 106 Stat. 2156, 2164.

SEC. 202. GIFTS.

The University and NTID are authorized to receive by gift, devise, bequest, purchase, or otherwise, property, both real and personal, for the use of the University or NTID, or for the use, as appropriate, for any programs, departments, or other units as may be designated in the conveyance or will, and to hold, invest, use, or dispose of such property for the purpose stated in the conveyance or will.

(20 U.S.C. 4352) Enacted August 4, 1986, P.L. 99–371, sec. 402, 100 Stat. 789; amended October 16, 1992, P.L. 102–421, secs. 101(b)(6), 132, 106 Stat. 2151, 2156.

SEC. 203. AUDIT.

(a) GENERAL ACCOUNTING OFFICE AUTHORITY.—All financial transactions and accounts of the corporation or institution of higher education, as the case may be, in connection with the expenditure of any moneys appropriated by any law of the United States—

(1) for the benefit of Gallaudet University or for the construction of facilities for its use; or

(2) for the benefit of the National Technical Institute for the Deaf or for the construction of facilities for its use,

shall be settled and adjusted in the General Accounting Office.

(b) INDEPENDENT AUDIT.—Gallaudet University and the institution of higher education operating the National Technical Institute for the Deaf shall have an annual independent audit made of the programs and activities of the University and of the Institute, respectively.

(c) LIMITATIONS REGARDING EXPENDITURE OF FUNDS.—

(1) IN GENERAL.—No funds appropriated under this Act for Gallaudet University, including the Kendall Demonstration Elementary School and the Model Secondary School for the Deaf, or for the National Technical Institute for the Deaf may be expended on the following:

(A) Alcoholic beverages.

(B) Goods or services for personal use.

(C) Housing and personal living expenses (but only to the extent such expenses are not required by written employment agreement).

(D) Lobbying, except that nothing in this subparagraph shall be construed to prohibit the University and NTID from educating the Congress, the Secretary, and others regarding programs, projects, and activities conducted at those institutions.

(E) Membership in country clubs and social or dining clubs and organizations.

(2) POLICIES.—

(A) Not later than 180 days after the date of the enactment of the Education of the Deaf Act Amendments of 1992, the University and NTID shall develop policies, to be applied uniformly, for the allowability of expenditures for each institution. These policies should reflect the unique nature of these institutions. The principles established by the Office of Management and Budget for costs of educational institutions may be used as guidance in developing these policies. General principles relating to allowability and reasonableness of all costs associated with the operations of the institutions shall be addressed. These policies shall be submitted to the Secretary for review and comments, and to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

(B) Policies under subparagraph (A) shall include the following:

(i) Noninstitutional professional activities.
(ii) Fringe benefits.
(iii) Interest on loans.
(iv) Rental cost of buildings and equipment.
(v) Sabbatical leave.
(vi) Severance pay.
(vii) Travel.
(viii) Royalties and other costs for uses of patents.

(C) The Secretary is not authorized to add items to those specified in subparagraph (B).

(20 U.S.C. 4353) Enacted August 4, 1986, P.L. 99–371, sec. 403, 100 Stat. 790; amended October 16, 1992, P.L. 102–421, secs. 101(b)(6), 133, 106 Stat. 2151, 2156.

NOTE: Public Law 100–202 (101 Stat. 1329–282) and Public Law 100–436 (102 Stat. 1707) each provide in part that funds appropriated in such Acts to Gallaudet University and the National Technical Institute for the Deaf shall be subject to audit by the Secretary of Education.

SEC. 204. REPORTS.

The Board of Trustees of Gallaudet University and the Board of Trustees or other governing body of the institution of higher education with which the Secretary has an agreement under section 112 shall prepare and submit an annual report to the Secretary, and to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate, not later than 100 days after the end of each fiscal year, which shall include the following:

(1) The number of students during the preceding academic year who enrolled and whether these were first time enrollments, who graduated, who found employment, or who left without completing a program of study, reported under each of the programs of the University (elementary, secondary, preparatory, undergraduate, and graduate) and of NTID.

(2) For the preceding academic year, and to the extent possible, the following data on individuals who are deaf and from minority backgrounds and who are students (at all educational levels) or employees:

(A) The number of students enrolled full- and part-time.

(B) The number of these students who completed or graduated from each of the educational programs.

(C) The disposition of these students upon graduation/completion of programs at NTID and at the University and its elementary and secondary schools in comparison to students from non-minority backgrounds.

(D) The number of students needing and receiving support services (such as tutoring and counseling) at all educational levels.

(E) The number of recruitment activities by type and location for all educational levels.

(F) Employment openings/vacancies and grade level/type of job and number of these individuals that applied and that were hired.

(G) Strategies (such as parent groups and training classes in the development of Individualized Education Programs) used by the elementary and secondary programs and the extension centers to reach and actively involve minority parents in the educational programs of their children who are deaf and the number of parents who have been served as a result of these activities.

(3) The annual audited financial statements of the University and NTID, respectively, together with the auditor's report.

(4) For the preceding fiscal year, a statement showing the receipts of the University and NTID and from what Federal sources, and a statement showing the expenditures of each institution by function, activity, and administrative and academic unit.

(5) A statement showing the use of funds (both corpus and income) provided by the Federal Endowment Program under section 207.

(6) A statement showing how such Endowment Program is invested, what the gains or losses (both realized and unrealized) on such investments were for the most recent fiscal year, and what changes were made in investments during that year.

(7) Such additional information as the Secretary may consider necessary.

(20 U.S.C. 4354) Enacted October 16, 1992, P.L. 102–421, secs. 101(b)(6), 134, 106 Stat. 2151, 2157.

SEC. 205. MONITORING, EVALUATION, AND REPORTING.

(a) Activities.—The Secretary shall conduct monitoring and evaluation activities of the education programs and activities and the administrative operations of the University (including the elementary, secondary, preparatory, undergraduate, and graduate programs) and of NTID. The Secretary may also conduct studies related to the provision of preschool, elementary, secondary, and postsecondary education and other related services to individuals who are deaf. In carrying out the responsibilities described in this section, the Secretary is authorized to employ such consultants as may be necessary pursuant to the provisions of section 3109 of title 5, United States Code.

(b) Report.—The Secretary, as part of the annual report required under section 426 of the Department of Education Organization Act, shall include a description of the monitoring and evaluation activities pursuant to subsection (a), together with such recommendations, including recommendations for legislation, as the Secretary may consider necessary.

(c) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1993, 1994, 1995, 1996, and 1997 to carry out the monitoring and evaluation activities authorized under this section.

(20 U.S.C. 4355) Enacted October 16, 1992, P.L. 102–421, secs. 101(b)(6), 135(a), 106 Stat. 2151, 2158.

SEC. 206. LIAISON FOR EDUCATIONAL PROGRAMS.

(a) DESIGNATION OF LIAISON.—Not later than 30 days after the date of enactment of this Act, the Secretary shall designate an individual in the Office of Special Education and Rehabilitative Services of the Department of Education from among individuals who have experience in the education of individuals who are deaf to serve as liaison between the Department and Gallaudet University, the National Technical Institute for the Deaf, and other postsecondary educational programs for individuals who are deaf under the Individuals with Disabilities Education Act, the Rehabilitation Act of 1973, and other Federal or non-Federal agencies, institutions, or organizations involved with the education or rehabilitation of individuals who are deaf or hard of hearing.

(b) DUTIES OF LIAISON.—The individual serving as liaison for educational programs for individuals who are deaf shall:

(1) provide information to institutions regarding the Department's efforts directly affecting the operation of such programs by such institutions;

(2) review research and other activities carried out by the University, NTID, and other Federal or non-Federal agencies, institutions, or organizations involved with the education or rehabilitation of individuals who are deaf or hard of hearing for the purpose of determining overlap and opportunities for coordination among such entities; and

(3) provide such support and assistance as such institutions may request and the Secretary considers appropriate.

(c) AUTHORITY OF SECRETARY.—Nothing in this section may be construed to affect the authority of the Secretary under this Act or any other Act with respect to Gallaudet University or the National Technical Institute for the Deaf.

(20 U.S.C. 4356) Enacted August 4, 1986, P.L. 99–371, sec. 406, 100 Stat. 790–791; amended October 30, 1990, P.L. 101–476, sec. 901(a)(2), 104 Stat. 1142; amended October 16, 1992, P.L. 102–421, secs. 101(b)(6), 136, 151(a)(5), (6), 106 Stat. 2159, 2164.

SEC. 207. FEDERAL ENDOWMENT PROGRAMS FOR GALLAUDET UNIVERSITY AND THE NATIONAL TECHNICAL INSTITUTE FOR THE DEAF.

(a) ESTABLISHMENT OF PROGRAMS.—

(1) The Secretary and the Board of Trustees of Gallaudet University are authorized to establish the Gallaudet University Federal Endowment Fund as a permanent endowment fund, in accordance with this section, for the purpose of promoting the financial independence of the University. The Secretary and the Board of Trustees may enter into such agreements as may be necessary to carry out the purposes of this section with respect to the University.

(2) The Secretary and the Board of Trustees or other governing body of the institution of higher education with which the Secretary has an agreement under section 112 are author-

ized to establish the National Technical Institute for the Deaf Federal Endowment Fund as a permanent endowment fund, in accordance with this section, for the purpose of promoting the financial independence of NTID. The Secretary and the Board or other governing body may enter into such agreements as may be necessary to carry out the purposes of this section with respect to NTID.

(b) FEDERAL PAYMENTS.—

(1) The Secretary shall, consistent with this section, make payments to the Federal endowment funds established under subsection (a) from amounts appropriated under subsection (h) for the fund involved.

(2) Subject to the availability of appropriations and the non-Federal matching requirements of paragraph (3), the Secretary shall make payments to each Federal endowment fund in amounts equal to sums contributed to the fund from non-Federal sources (excluding transfers from other endowment funds of the institution involved).

(3) Effective for fiscal year 1993 and each succeeding fiscal year, for any fiscal year in which the sums contributed to the Federal endowment fund of the institution involved from non-Federal sources exceed $1,000,000, the non-Federal contribution to the Federal endowment fund shall be $2 for each Federal dollar provided in excess of $1,000,000 (excluding transfers from other endowment funds of the institution involved).

(c) INVESTMENTS.—

(1) Except as provided in subsection (e), the University and NTID, respectively, shall invest its Federal endowment fund corpus and income in instruments and securities offered through one or more cooperative service organizations of operating educational organizations under section 501(f) of the Internal Revenue Code of 1986, or in low-risk instruments and securities in which a regulated insurance company may invest under the laws of the State in which the institution involved is located.

(2) In managing the investment of its Federal endowment fund, the University or NTID shall exercise the judgment and care, under the prevailing circumstances, that a person of prudence, discretion, and intelligence would exercise in the management of that person's own business affairs.

(3) Neither the University nor NTID may invest its Federal endowment fund corpus or income in real estate, or in instruments or securities issued by an organization in which an executive officer, a member of the Board of Trustees of the University or of the host institution, or a member of the Advisory Board of NTID is a controlling shareholder, director, or owner within the meaning of Federal securities laws and other applicable laws. Neither the University nor NTID may assign, hypothocate, encumber, or create a lien on the Federal endowment fund corpus without specific written authorization of the Secretary.

(d) WITHDRAWALS AND EXPENDITURES.—

(1) Except as provided in paragraph (3)(B), neither the University nor NTID may withdraw or expend any of the corpus of its Federal endowment fund.

(2)(A) The University and NTID, respectively, may withdraw or expend the income of its Federal endowment fund only for expenses necessary to the operation of that institution, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and student services programs, technical assistance, and research.

(B) Neither the University nor NTID may withdraw or expend the income of its Federal endowment fund for any commercial purpose.

(C) Beginning on October 1, 1992, the University and NTID shall maintain records of the income generated from its respective Federal endowment fund for the prior fiscal year.

(3)(A) Except as provided in subparagraph (B), the University and NTID, respectively, may, on an annual basis, withdraw or expend not more than 50 percent of the income generated from its Federal endowment fund from the prior fiscal year.

(B) The Secretary may permit the University or NTID to withdraw or expend a portion of its Federal endowment fund corpus or more than 50 percent of the income generated from its Federal endowment fund from the prior fiscal year if the institution involved demonstrates, to the Secretary's satisfaction, that such withdrawal or expenditure is necessary because of—

(i) a financial emergency, such as a pending insolvency or temporary liquidity problem;

(ii) a life-threatening situation occasioned by natural disaster or arson; or

(iii) another unusual occurrence or exigent circumstance.

(e) INVESTMENT AND EXPENDITURE FLEXIBILITY.—The corpus associated with a Federal payment (and its non-Federal match) made to the Federal endowment fund of the University or NTID shall not be subject to the investment limitations of subsection (c)(1) after 10 fiscal years following the fiscal year in which the funds are matched, and the income generated from such corpus after the tenth fiscal year described in this subsection shall not be subject to such investment limitations and to the withdrawal and expenditure limitations of subsection (d)(3).

(f) RECOVERY OF PAYMENTS.—After notice and an opportunity for a hearing, the Secretary is authorized to recover any Federal payments under this section if the University or NTID—

(1) makes a withdrawal or expenditure of the corpus or income of its Federal endowment fund that is not consistent with this section;

(2) fails to comply with the investment standards and limitations under this section; or

(3) fails to account properly to the Secretary concerning the investment of or expenditures from the Federal endowment fund corpus or income.

(g) DEFINITIONS.—As used in this section:

(1) The term "corpus", with respect to a Federal endowment fund under this section, means an amount equal to the Federal payments to such fund, amounts contributed to the fund from non-Federal sources, and appreciation from capital gains and reinvestment of income.

(2) The term "Federal endowment fund" means a fund, or a tax-exempt foundation, established and maintained pursuant to this section by the University or NTID, as the case may be, for the purpose of generating income for the support of the institution involved.

(3) The term "income", with respect to a Federal endowment fund under this section, means an amount equal to the dividends and interest accruing from investments of the corpus of such fund.

(4) The term "institution involved" means the University or NTID, as the case may be.

(h) AUTHORIZATION OF APPROPRIATIONS.—

(1) In the case of the University, there are authorized to be appropriated for the purposes of this section such sums as may be necessary for each of the fiscal years 1993 through 1997.

(2) In the case of NTID, there are authorized to be appropriated for the purposes of this section such sums as may be necessary for each of the fiscal years 1993 through 1997.

(3) Amounts appropriated under paragraph (1) or (2) shall remain available until expended.

(i) EFFECTIVE DATE.—The provisions of this section shall take effect as if included in the provisions of the Education of the Deaf Act of 1986.

(20 U.S.C. 4357) Enacted October 16, 1992, P.L. 102–421, secs. 101(b)(6), 137, 106 Stat. 2159.

SEC. 208. SCHOLARSHIP PROGRAM.

(a) IN GENERAL.—The Secretary may make grants to institutions of higher education that have teacher training programs in deaf education or special education for the purpose of providing scholarships to individuals who are deaf for careers in deaf education or special education. Such institutions shall give priority consideration in the selection of qualified recipients of the scholarships to individuals from underrepresented backgrounds, particularly minority individuals who are deaf and who are underrepresented in the teaching profession. Grants may be used by institutions to assist in covering the cost of courses of training or study for such individuals and for establishing and maintaining fellowships or traineeships with stipends and allowances as may be determined by the Secretary.

(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants under subsection (a), there are authorized to be appropriated $2,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1997.

(20 U.S.C. 4358) Enacted October 16, 1992, P.L. 102–421, sec. 138, 106 Stat. 2162

SEC. 209. OVERSIGHT AND EFFECT OF AGREEMENTS.

(a) OVERSIGHT ACTIVITIES.—Nothing in this Act shall be construed to diminish the oversight activities of the Committee on

Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives with respect to any agreement entered into between the Secretary of Education and Gallaudet University, and the institution of higher education with which the Secretary has an agreement under title II.

(b) CONSTRUCTION OF AGREEMENTS.—The agreements described in subsection (a) of this section shall continue in effect, to the extent that such agreements are not inconsistent with the provisions of this Act.

(20 U.S.C. 4359) Enacted August 4, 1986, P.L. 99–371, sec. 409, 100 Stat. 794; amended October 16, 1992, P.L.102–421, sec. 101(b)(6), 106 Stat. 2151.

SEC. 210. INTERNATIONAL STUDENTS.

(a) ENROLLMENT.—Effective with new admissions for academic year 1993–1994 and each succeeding academic year, the University (including preparatory, undergraduate, and graduate students) and NTID shall limit the enrollment of international students to approximately 10 percent of the total postsecondary student population enrolled respectively at the University or NTID.

(b) TUITION SURCHARGE.—Effective with new admissions, the tuition for postsecondary international students enrolled in the University (including preparatory, undergraduate, and graduate students) or NTID shall include a surcharge of 75 percent beginning the academic year 1993–1994, and 90 percent beginning the academic year 1994–1995.

(c) REDUCTION OF SURCHARGE.—Beginning the academic year 1993–1994 and thereafter, the University or NTID may reduce the surcharge under subsection (b) to 50 percent if—

(A)[1] a student described under subsection (b) is from a developing country;

(B)[1] such student is unable to pay the tuition surcharge under subsection (b); and

(C)[1] such student has made a good faith effort to secure aid through such student's government or other sources.

(d) DEFINITION.—For purposes of subsection (c), the term "developing country" means a country that has a 1990 per capita income not in excess of $4,000 in 1990 United States dollars.

(20 U.S.C. 4359a) Enacted October 16, 1992, P.L. 102–421, secs. 101(b)(6), 139, 106 Stat. 2163.

SEC. 211. AUTHORIZATION OF APPROPRIATIONS.

(a) GALLAUDET UNIVERSITY.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1993 through 1997 to carry out the provisions of this Act, relating to—

(A)[2] Gallaudet University,

(B)[2] Kendall Demonstration Elementary School, and

(C)[2] the model secondary school for individuals who are deaf.

(b) NATIONAL TECHNICAL INSTITUTE FOR THE DEAF.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1993 through 1997 to carry out the provisions of this Act relating to the National Technical Institute for the Deaf.

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[1] So in law. See Public Law 102–421. Subparagraphs (A) through (C) probably should be redesignated as paragraphs (1) through (3), respectively.

[2] So in law. See Public Law 99–371. Subparagraphs (A) through (C) probably should be redesignated as paragraphs (1) through (3), respectively.

(20 U.S.C. 4360) Enacted Aug. 4, 1986, P.L. 99–371, sec. 411, 100 Stat. 794–795; amended October 16, 1992, P.L. 102–421, secs. 101(b)(6), 140, 151(a)(4), 106 Stat. 2151, 2163.

INDIVIDUALS WITH DISABILITIES EDUCATION ACT

PART II—EDUCATION AND TRAINING OF INDIVIDUALS WITH DISABILITIES

INDIVIDUALS WITH DISABILITIES EDUCATION ACT[1]

PART A—GENERAL PROVISIONS

SHORT TITLE; STATEMENT OF FINDINGS AND PURPOSE

SEC. 601. (a) This title may be cited as the "Individuals with Disabilities Education Act".

(b) The Congress finds that—

(1) there are more than eight million children with disabilities in the United States today;

(2) the special educational needs of such children are not being fully met;

(3) more than half of the children with disabilities in the United States do not receive appropriate educational services which would enable them to have full equality of opportunity;

(4) one million of the children with disabilities in the United States are excluded entirely from the public school system and will not go through the educational process with their peers;

(5) there are many children with disabilities throughout the United States participating in regular school programs whose disabilities prevent them from having a successful educational experience because their disabilities are undetected;

(6) because of the lack of adequate services within the public school system, families are often forced to find services outside the public school system, often at great distance from their residence and at their own expense;

(7) developments in the training of teachers and in diagnostic and instructional procedures and methods have advanced to the point that, given appropriate funding, State and local educational agencies can and will provide effective special education and related services to meet the needs of children with disabilities;

(8) State and local educational agencies have a responsibility to provide education for all children with disabilities, but present financial resources are inadequate to meet the special educational needs of children with disabilities; and

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[1] The short title of this title formerly was the "Education of the Handicapped Act", which was revised by section 901(a) of Public Law 101–476 (104 Stat. 1141). This title is title VI of P.L. 91–230, which was enacted April 13, 1970. Section 662 of that Public Law provided for the repeal of title VI of the Elementary and Secondary Education Act of 1965, which concerned the education of handicapped children. (P.L. 89–750 had added that title.) This repeal was effective July 1, 1971. Also repealed as of that date were the following: P.L. 90–538, Handicapped Children's Early Education Assistance Act; P.L. 85–926, Grants for Teaching in the Education of Handicapped Children; P.L. 88–164, titles III and V of the Mental Retardation Facilities and Community Mental Centers Construction Act of 1963; and P.L. 85–905, Instructional Media for Handicapped Children.

(9) it is in the national interest that the Federal Government assist State and local efforts to provide programs to meet the educational needs of children with disabilities in order to assure equal protection of the law.

(c) It is the purpose of this Act[1] to assure that all children with disabilities have available to them, within the time periods specified in section 612(2)(B), a free appropriate public education which emphasizes special education and related services designed to meet their unique needs, to assure that the rights of children with disabilities and their parents or guardians are protected, to assist States and localities to provide for the education of all children with disabilities, and to assess and assure the effectiveness of efforts to educate children with disabilities.

(20 U.S.C. 1400) Enacted November 29, 1975 P.L. 94–142, sec. 3, 89 Stat. 774, 775; amended October 30, 1990, P.L. 101–476, sec. 901(a)(1), (b) (1)–(9), 104 Stat. 1141–42.

DEFINITIONS

SEC. 602. (a) As used in this title—

(1)(A) The term "children with disabilities" means children—

(i) with mental retardation, hearing impairments including deafness, speech or language impairments, visual impairments including blindness, serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and

(ii) who, by reason thereof, need special education and related services.

(B) The term "children with disabilities" for children aged 3 to 5, inclusive, may, at a State's discretion, include children—

(i) experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development; and

(ii) who, by reason thereof, need special education and related services.

[(2)] [2]

[(3)] [3]

(4) The term "construction", except where otherwise specified, means (A) erection of new or expansion of existing structures, and the acquisition and installation of equipment therefor; or (B) acquisition of existing structures not owned by any agency or institution making application for assistance under

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[1] So in law. The reference to "this Act" is a reference to the entirety of Public Law 91–230, and not solely to the Individuals with Disabilities Education Act, which is title VI of that Public Law (P.L. 91–230).

[2] P.L. 98–199, sec. 2(2), struck this paragraph, which defined the term "Commissioner". That law further amended this Act by replacing all references to "Commissioner" or "Commissioner's" with "Secretary" or "Secretary's", respectively

[3] P.L. 100–630, sec. 101(a)(2), struck this paragraph, which defined the term "Advisory Committee".

this title; or (C) remodeling or alteration (including the acquisition, installation, modernization, or replacement of equipment) of existing structures; or (D) acquisition of land in connection with the activities in clauses (A), (B), and (C); or (E) a combination of any two or more of the foregoing.

(5) The term "equipment" includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture, printed, published, and audio-visual instructional materials, telecommunications, sensory, and other technological aids and devices, and books, periodicals, documents, and other related materials.

(6) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.[1]

(7) The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(8) The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function, for public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(9) The term "elementary school" means a day or residential school which provides elementary education, as determined under State law.

(10) The term "secondary school" means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

(11) The term "institution of higher education" means an educational institution in any State which—

(A) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

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[1] Section 802(d)(1) of Public Law 102–73 (105 Stat. 361) provided that section 602(a)(6) of the "Education of the Handicapped Act" is amended by striking "or the Trust Territory of the Pacific Islands" and inserting "or Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99–658)". The amendment cannot be executed, as there is no Act entitled the "Education of the Handicapped Act" due to section 901(a) of Public Law 101–476. See footnote on page 229. (The amendment described in such section 802(d)(1) did cite the section of the United States Code in which section 602 of the Individuals with Disabilities Education Act is codified.)

(B) is legally authorized within such State to provide a program of education beyond high school;

(C) provides an educational program for which it awards a bachelor's degree, or provides not less than a two-year program which is acceptable for full credit toward such a degree, or offers a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge;

(D) is a public or other nonprofit institution; and

(E) is accredited by a nationally recognized accrediting agency or association listed by the Secretary pursuant to this paragraph or, if not so accredited, is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited: *Provided, however,* That in the case of an institution offering a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge, if the Secretary determines that there is no nationally recognized accrediting agency or association qualified to accredit such institutions, the Secretary shall appoint an advisory committee, composed of persons specially qualified to evaluate training provided by such institutions, which shall prescribe the standards of content, scope, and quality which must be met in order to qualify such institutions to participate under this Act and shall also determine whether particular institutions meet such standards. For the purposes of this paragraph the Secretary shall publish a list of nationally recognized accrediting agencies or associations which the Secretary determines to be reliable authority as to the quality of education or training offered.

The term includes community colleges receiving funding from the Secretary of the Interior under the Tribally Controlled Community College Assistance Act of 1978.

(12) The term "nonprofit" as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(13) The term "research and related purposes" means research, research training (including the payment of stipends and allowances), surveys, or demonstrations in the field of education of children with disabilities, or the dissemination of in-

formation derived therefrom, including (but without limitation) experimental schools.

(14) The term "Secretary" means the Secretary of Education.

(15) The term "children with specific learning disabilities" means those children who have a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. Such disorders include such conditions as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. Such term does not include children who have learning problems which are primarily the result of visual, hearing, or motor disabilities, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

(16) The term "special education" means specially designed instruction, at no cost to parents or guardians, to meet the unique needs of a child with a disability, including—

(A) instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and

(B) instruction in physical education.

(17) The term "related services" means transportation, and such developmental, corrective, and other supportive services (including speech pathology and audiology, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, social work services, counseling services, including rehabilitation counseling, and medical services, except that such medical services shall be for diagnostic and evaluation purposes only) as may be required to assist a child with a disability to benefit from special education, and includes the early identification and assessment of disabling conditions in children.

(18) The term "free appropriate public education" means special education and related services that—

(A) have been provided at public expense, under public supervision and direction, and without charge,

(B) meet the standards of the State educational agency,

(C) include an appropriate preschool, elementary, or secondary school education in the State involved, and

(D) are provided in conformity with the individualized education program required under section 614(a)(5).

(19) The term "transition services" means a coordinated set of activities for a student, designed within an outcome-oriented process, which promotes movement from school to post-school activities, including post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities shall be based upon the individual student's needs, taking into account the student's preferences and interests, and shall include instruction, community experiences, the

development of employment and other post-school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

(20) The term "individualized education program" means a written statement for each child with a disability developed in any meeting by a representative of the local educational agency or an intermediate educational unit who shall be qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities, the teacher, the parents or guardian of such child, and, whenever appropriate, such child, which statement shall include—

(A) a statement of the present levels of educational performance of such child,

(B) a statement of annual goals, including short-term instructional objectives,

(C) a statement of the specific educational services to be provided to such child, and the extent to which such child will be able to participate in regular educational programs,

(D) a statement of the needed transition services for students beginning no later than age 16 and annually thereafter (and, when determined appropriate for the individual, beginning at age 14 or younger), including, when appropriate, a statement of the interagency reponsibilities or linkages (or both) before the student leaves the school setting,

(E) the projected date for initiation and anticipated duration of such services, and

(F) appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether instructional objectives are being achieved.

In the case where a participating agency, other than the educational agency, fails to provide agreed upon services, the educational agency shall reconvene the IEP team to identify alternative strategies to meet the transition objectives.

(21) The term "excess costs" means those costs which are in excess of the average annual per student expenditure in a local educational agency during the preceding school year for an elementary or secondary school student, as may be appropriate, and which shall be computed after deducting—

(A) amounts received—

(i) under this part,

(ii) under chapter 1 of title I of the Elementary and Secondary Education Act of 1965, or

(iii) under title VII of the Elementary and Secondary Education Act of 1965, and

(B) any State or local funds expended for programs that would qualify for assistance under such part, chapter, or title.

(22) The term "native language" has the meaning given that term by section 7003(a)(2) of the Bilingual Education Act.

(23) The term "intermediate educational unit" means any public authority, other than a local educational agency, which is under the general supervision of a State educational agency,

which is established by State law for the purpose of providing free public education on a regional basis, and which provides special education and related services to children with disabilities within that State.

(24)(A) The term "public or private nonprofit agency or organization" includes an Indian tribe and the Bureau of Indian Affairs of the Department of the Interior (when acting on behalf of schools operated by the Bureau for children and students on Indian reservations) and tribally controlled schools funded by the Department of the Interior.

(B) The terms "Indian", "American Indian", and "Indian American" mean an individual who is a member of an Indian tribe.

(C) The term "Indian tribe" means any Federal or State Indian tribe, band, rancheria, pueblo, colony, or community, including any Alaskan native village or regional village corporation (as defined in or established under the Alaska Native Claims Settlement Act).

(25) The term "assistive technology device" means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.

(26) The term "assistive technology service" means any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device. Such term includes—

(A) the evaluation of the needs of an individual with a disability, including a functional evaluation of the individual in the individual's customary environment;

(B) purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by individuals with disabilities;

(C) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing of assistive technology devices;

(D) coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

(E) training or technical assistance for an individual with disabilities, or, where appropriate, the family of an individual with disabilities; and

(F) training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of individuals with disabilities.

(27) The term "underrepresented" means populations such as minorities, the poor, the limited English proficient, and individuals with disabilities.

(b) For purposes of part C of this title, "youth with a disability" means any child with a disability (as defined in subsection (a)(1)) who—

(1) is twelve years of age or older; or

(2) is enrolled in the seventh or higher grade in school.

(20 U.S.C. 1401) Enacted April 13, 1970, P.L. 91–230, Title VI, sec. 602, 84 Stat. 175, amended November 29, 1975, P.L. 94–142, sec. 4(a), 89 Stat. 775, 776; amended December 2, 1983, P.L. 98–199, sec. 2, 97 Stat. 1357; amended October 8, 1986, P.L. 99–457, sec. 402, 100 Stat. 1172; amended November 7, 1988, P.L. 100–630, sec. 101(a), 102 Stat. 3289; amended October 30, 1990, P.L. 101–476, secs. 101 and 901(b)(10)–(20), 104 Stat. 1103–05, 1142–43; amended October 7, 1991, P.L. 102–119, secs. 3 and 25(a)(1), 105 Stat. 587 and 605.

OFFICE OF SPECIAL EDUCATION PROGRAMS

SEC. 603. (a) There shall be, within the Office of Special Education and Rehabilitative Services in the Department of Education, an Office of Special Education Programs which shall be the principal agency in the Department for administering and carrying out this Act and other programs and activities concerning the education and training of individuals with disabilities.

(b)(1) The Office established under subsection (a) shall be headed by a Deputy Assistant Secretary who shall be selected by the Secretary and shall report directly to the Assistant Secretary for Special Education and Rehabilitative Services. The position of Deputy Assistant Secretary shall be in grade GS–18 of the General Schedule under section 5104 of title 5, United States Code, and shall be a Senior Executive Service position for the purposes of section 3132(a)(2) of such title.

(2) In addition to such Deputy Assistant Secretary, there shall be established in such office not less than six positions for persons to assist the Deputy Assistant Secretary, including the position of Associate Deputy Assistant Secretary. Each such position shall be in grade GS–15 of the General Schedule under section 5104 of title 5, United States Code.

(20 U.S.C. 1402) Enacted April 13, 1970, P.L. 91–230, Title VI, sec. 603, 84 Stat. 177; amended August 21, 1974, P.L. 93–380, sec. 612(a), 88 Stat. 579, 580; amended December 2, 1983, P.L. 98–199, sec. 3(a), 97 Stat. 1359; amended October 30, 1990, P.L. 101–476, sec. 901(b)(21), 104 Stat. 1143.

ABROGATION OF STATE SOVEREIGN IMMUNITY

SEC. 604. (a) A State shall not be immune under the eleventh amendment to the Constitution of the United States from suit in Federal court for a violation of this Act.

(b) In a suit against a State for a violation of this Act,[1] remedies (including remedies both at law and in equity) are available for such a violation to the same extent as such remedies are available for such a violation in the suit against any public entity other than a State.

(c) The provisions of subsections (a) and (b) shall take effect with respect to violations that occur in whole or part after the date of the enactment of the Education of the Handicapped Act Amendments of 1990.

(20 U.S.C. 1403) Enacted October 30, 1990, P.L. 101–476, sec. 103, 104 Stat. 1106.

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[1] Reference to "this Act" is so in law. See footnote 1 on page 230.

ACQUISITION OF EQUIPMENT AND CONSTRUCTION OF NECESSARY FACILITIES

SEC. 605. (a) In the case of any program authorized by this title, if the Secretary determines that such program will be improved by permitting the funds authorized for such program to be used for the acquisition of equipment and the construction of necessary facilities, the Secretary may authorize the use of such funds for such purposes.

(b) If, within twenty years after the completion of any construction (except minor remodeling or alteration) for which funds have been paid pursuant to a grant or contract under this title, the facility constructed ceases to be used for the purposes for which it was constructed, the United States, unless the Secretary determines that there is good cause for releasing the recipient of the funds from its obligation, shall be entitled to recover from the applicant or other owner of the facility an amount which bears the same ratio to the then value of the facility as the amount of such Federal funds bore to the cost of the portion of the facility financed with such funds. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which the facility is situated.

(20 U.S.C. 1404) Enacted April 13, 1970, P.L. 91–230, Title VI, sec. 605, 84 Stat. 177; amended November 7, 1988, P.L. 100–630, sec. 101(b), 102 Stat. 3290; amended October 7, 1991, P.L. 102–119, sec. 25(a)(2), 105 Stat. 605.

EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES

SEC. 606. The Secretary shall assure that each recipient of assistance under this Act shall make positive efforts to employ and advance in employment qualified individuals with disabilities in programs assisted under this Act.

(20 U.S.C. 1405) Enacted November 29, 1975, P.L. 94–142, sec. 6(a), 89 Stat. 795; amended October 30, 1990, P.L. 101–476, sec. 901(b) (22) and (23), 104 Stat. 1143.

GRANTS FOR THE REMOVAL OF ARCHITECTURAL BARRIERS

SEC. 607. (a) The Secretary is authorized to make grants and to enter into cooperative agreements with the Secretary of the Interior and with State educational agencies to assist such agencies in making grants to local educational agencies or intermediate educational units to pay part or all of the cost of altering existing buildings and equipment in accordance with standards promulgated under the Act entitled "An Act to insure that certain buildings financed with Federal funds are so designed and constructed as to be accessible to the physically handicapped", approved August 12, 1968.

(b) For the purposes of carrying out the provisions of this section, there are authorized to be appropriated such sums as may be necessary.

(20 U.S.C. 1406) Enacted November 29, 1975, P.L. 94–142, sec. 6(a), 89 Stat. 795; amended December 2, 1983, P.L. 98–199, sec. 5, 97 Stat. 1358; amended October 8, 1986, P.L. 99–457, sec. 401, 100 Stat. 1172; amended November 7, 1988, P.L. 100–630, sec. 101(c), 102 Stat. 3290.

REQUIREMENTS FOR PRESCRIBING REGULATIONS

SEC. 608. (a) For purposes of complying with section 431(b) of the General Education Provisions Act with respect to regulations promulgated under part B of this Act, the thirty-day period under such section shall be ninety days.

(b) The Secretary may not implement, or publish in final form, any regulation prescribed pursuant to this Act which would procedurally or substantively lessen the protections provided to children with disabilities under this Act, as embodied in regulations in effect on July 20, 1983 (particularly as such protections relate to parental consent to initial evaluation or initial placement in special education, least restrictive environment, related services, timelines,[1] attendance of evaluation personnel at individualized education program meetings, or qualifications of personnel), except to the extent that such regulation reflects the clear and unequivocal intent of the Congress in legislation.

(20 U.S.C. 1407) Enacted December 2, 1983, P.L. 98–199, sec. 6, 97 Stat. 1359; amended November 7, 1988, P.L. 100–630, sec. 101(d), 102 Stat. 3290; amended October 30, 1990, P.L. 101–476, sec. 901(b)(24), 104 Stat. 1143.

ELIGIBILITY FOR FINANCIAL ASSISTANCE

SEC. 609. Effective for fiscal years for which the Secretary may make grants under section 619(b)(1), no State or local educational agency or intermediate educational unit or other public institution or agency may receive a grant under parts C through G which relate exclusively to programs, projects, and activities pertaining to children aged three to five, inclusive, unless the State is eligible to receive a grant under section 619(b)(1).

(20 U.S.C. 1408) Enacted October 8, 1986, P.L. 99–457, sec. 202, 100 Stat. 1158.

ADMINISTRATIVE PROVISIONS APPLICABLE TO PARTS C THROUGH G AND SECTION 618

SEC. 610. (a) The Secretary shall maintain a process for developing a program plan for the implementation of each of the programs authorized under section 618 and parts C through G. The plan shall include program goals, objectives, strategies, and priorities. In conducting the process, the Secretary shall involve individuals with disabilities, parents, professionals, and representatives of State and local educational agencies, private schools, institutions of higher education, and national organizations who have interest and expertise in the program.

(b) In awarding grants, contracts, and cooperative agreements under parts C through G, the Secretary, where appropriate, shall require applicants to demonstrate how they will address, in whole or in part, the needs of infants, toddlers, children, and youth with disabilities from minority backgrounds.

(c) In awarding grants, contracts, or cooperative agreements under parts C through G the Secretary, where appropriate, may require applicants to address the various transitions that a child with a disability may face throughout such child's years in school, including—

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[1] So in law. Probably should be "timeliness".

(1) the transition from medical care to special education for those children with disabilities, including chronic health impairments, who may require individualized health-related services to enable such children to participate in, or benefit from, special education;

(2) the transition between residential placement and community-based special education services; and

(3) the transition between a separate educational placement and the regular classroom setting.

(d) The Secretary shall conduct directly, or by contract or cooperative agreement with appropriate entities, independent evaluations of the programs authorized under section 618 and under parts C through G, and may for such purpose use funds appropriated to carry out such provisions. The findings of the evaluators shall be utilized in the planning process under subsection (a) for the purpose of improving the programs. The evaluations shall determine the degree to which the program is being conducted consistent with the program plan and meeting its goals and objectives. The Secretary shall submit to the appropriate committees of the Congress the results of the evaluations required by this subsection.

(e) The Secretary shall report on the program plans required in subsection (a) and findings from the evaluations under subsection (d) in the annual report to the Congress required under section 618.

(f) The Secretary shall develop effective procedures for acquiring and disseminating information derived from programs and projects funded under parts C through G, as well as information generated from studies conducted and data collected under section 618.

(g) The Secretary shall, where appropriate, require recipients of all grants, contracts, and cooperative agreements under parts C through G to prepare reports describing their procedures, findings, and other relevant information in a form that will maximize the dissemination and use of such procedures, findings, and information. The Secretary shall require their delivery, as appropriate, to the Regional and Federal Resource Centers, the Clearinghouses, and the Technical Assistance to Parents Programs (TAPP) assisted under parts C and D, as well as the National Diffusion Network, the ERIC Clearinghouse on the Handicapped and Gifted, and the Child and Adolescent Service Systems Program (CASSP) under the National Institute of Mental Health, appropriate parent and professional organizations, organizations representing individuals with disabilities, and such other networks as the Secretary may determine to be appropriate.

(h)(1) The Secretary shall convene, in accordance with paragraph (2), panels of experts who are competent, by virtue of their training or experience, to evaluate proposals under section 618 and parts C through G.

(2) Panels under paragraph (1) shall be composed of individuals with disabilities, parents of such individuals, individuals from the fields of special education, related services, and other relevant disciplines.

(3) The Secretary shall convene panels under paragraph (1) for any application that includes a total funding request exceeding

$60,000 and may convene or otherwise appoint panels for applications that include funding requests that are less than such amount.

(4) Panels under paragraph (1) shall include a majority of non-Federal members. Such non-Federal members shall be provided travel and per diem not to exceed the rate provided to other educational consultants used by the Department of Education and shall be provided consultant fees at such a rate.

(5) The Secretary may use funds available under section 618 and parts C through G to pay expenses and fees of non-Federal members of the panels.

(i) The Secretary shall conduct at least 1 site visit for each grant, contract, and cooperative agreement receiving $300,000 or more annually under parts C through G.

(j)(1) With respect to the discretionary programs authorized by parts C through G, the Congress finds as follows:

(A)(i) The Federal Government must be responsive to the growing needs of an increasingly more diverse society. A more equitable allocation of resources is essential for the Federal Government to meet its responsibility to provide an equal educational opportunity for all individuals.

(ii) America's racial profile is rapidly changing. While the rate of increase for white Americans is 3.2 percent, the rate of increase for racial and ethnic minorities is much higher: 38.6 percent for Hispanics, 14.6 percent for African-Americans, and 40.1 percent for Asians and other ethnic groups.

(iii) By the year 2000, this Nation will have 260,000,000 people, one of every three of whom will be either African-American, Hispanic, or Asian-American.

(iv) Taken together as a group, it is a more frequent phenomenon for minorities to comprise the majority of public school students. Large city school populations are overwhelmingly minority, e.g., Miami, 71 percent; Philadelphia, 73 percent; Baltimore, 80 percent.

(v) Recruitment efforts within special education at the level of preservice, continuing education, and practice must focus on bringing larger numbers of minorities into the profession in order to provide appropriate practitioner knowledge, role models, and sufficient manpower to address the clearly changing demography of special education.

(vi) The limited English proficient population is the fastest growing in our Nation, and the growth is occurring in many parts of our Nation. In the Nation's 2 largest school districts, limited-English students make up almost half of all students initially entering school at the kindergarten level. Studies have documented apparent discrepancies in the levels of referral and placement of limited-English proficient children in special education. The Department of Education has found that services provided to limited-English proficient students often do not respond primarily to the pupil's academic needs. These trends pose special challenges for special education in the referral, assessment, and services for our Nation's students from non-English language backgrounds.

(B)(i) Greater efforts are needed to prevent the intensification of problems connected with mislabeling and high dropout rates among minority children with disabilities.

(ii) More minority children continue to be served in special education than would be expected from the percentage of minority students in the general school population.

(iii) Poor African-American children are 3.5 times more likely to be identified by their teacher as mentally retarded than their white counterpart.

(iv) Although African-Americans represent 12 percent of elementary and secondary enrollments, they constitute 28 percent of total enrollments in special education.

(v) The drop out rate is 68 percent higher for minorities than for whites.

(vi) More than 50 percent of minority students in large cities drop out of school.

(C)(i) The opportunity for full participation in awards for grants and contracts; boards of organizations receiving funds under this Act; and peer review panels; and training of professionals in the area of special education by minority individuals, organizations, and historically Black colleges and universities is essential if we are to obtain greater success in the education of minority children with disabilities.

(ii) In 1989, of the 661,000 college and university professors, 4.6 percent were African-American and 3.1 percent were Hispanic. Of the 3,600,000 teachers, prekindergarten through high school, 9.4 percent were African-American and 3.9 percent were Hispanic.

(iii) Students from minority groups comprise more than 50 percent of K–12 public school enrollment in seven States yet minority enrollment in teacher training programs is less than 15 percent in all but six States.

(iv) As the number of African-American and Hispanic students in special education increases, the number of minority teachers and related service personnel produced in our colleges and universities continues to decrease.

(v) Ten years ago, 12.5 percent of the United States teaching force in public elementary and secondary schools were members of a minority group. Minorities comprised 21.3 percent of the national population at that time and were clearly underrepresented then among employed teachers. Today, the elementary and secondary teaching force is 3 to 5 percent minority, while one-third of the students in public schools are minority children.

(vi) As recently as 1984–85, Historically Black Colleges and Universities (HBCUs) supplied nearly half of the African-American teachers in the Nation. However, in 1988, HBCUs received only 2 percent of the discretionary funds for special education and related services personnel training.

(vii) While African-American students constitute 28 percent of total enrollment in special education, only 11.2 percent of individuals enrolled in preservice training programs for special education are African-American.

(viii) In 1986–87, of the degrees conferred in education at the B.A., M.A., and Ph.D levels, only 6, 8, and 8 percent, respectively, were awarded to African-American or Hispanic students.

(D) Minorities and underserved persons are socially disadvantaged because of the lack of opportunities in training and educational programs, undergirded by the practices in the private sector that impede their full participation in the mainstream of society.

(2) The Congress further finds that these conditions can be greatly improved by providing opportunities for the full participation of minorities through the implementation of the following recommendations:

(A) Implementation of a policy to mobilize the Nation's resources to prepare minorities for careers in special education and related services.

(B) This policy should focus on—

(i) the recruitment of minorities into teaching; and

(ii) financially assisting HBCUs and other institutions of higher education (whose minority student enrollment is at least 25 percent) to prepare students for special education and related service careers.

(C)(i) The Secretary shall develop a plan for providing outreach services to the entities described in clause (ii) in order to increase the participation of such entities in competitions for grants, contracts, and cooperative agreements under any of parts C through G.

(ii) The entities referred to in clause (i) are—

(I) Historically Black Colleges and Universities and other institutions of higher education whose minority student enrollment is at least 25 percent;

(II) eligible institutions as defined in section 312 of the Higher Education Act of 1965;

(III) nonprofit and for-profit agencies at least 51 percent owned or controlled by one or more minority individuals; and

(IV) underrepresented populations.

(iii) For the purpose of implementing the plan required in clause (i), the Secretary shall, for each of the fiscal years 1991 through 1994, expend 1 percent of the funds appropriated for the fiscal year involved for carrying out parts C through G.

(3) The Secretary shall exercise his/her utmost authority, resourcefulness, and diligence to meet the requirements of this subsection.

(4) Not later than January 31 of each year, starting with fiscal year 1991, the Secretary shall submit to Congress a final report on the progress toward meeting the goals of this subsection during the preceding fiscal year. The report shall include—

(i)[1] a full explanation of any progress toward meeting the goals of this subsection; and

(ii)[1] a plan to meet the goals, if necessary.

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[1] So in law. See section 104 of Public Law 101–476. Clauses (i) and (ii) probably should be redesignated as subparagraphs (A) and (B).

(20 U.S.C. 1409) Enacted October 30, 1990, P.L. 101–476, sec. 104, 104 Stat. 1106.

PART B—ASSISTANCE FOR EDUCATION OF ALL CHILDREN WITH DISABILITIES

SETTLEMENTS AND ALLOCATIONS

SEC. 611. (a)(1) Except as provided in paragraph (5) and in section 619, the maximum amount of the grant to which a State is entitled under this part for any fiscal year shall be equal to—

(A) the number of children with disabilities aged 3–5, inclusive, in a State who are receiving special education and related services as determined under paragraph (3) if the State is eligible for a grant under section 619 and the number of children with disabilities aged 6–21, inclusive, in a State who are receiving special education and related services as so determined;

multiplied by—

(B)(i) 5 per centum, for the fiscal year ending September 30, 1978, of the average per pupil expenditure in public elementary and secondary schools in the United States;

(ii) 10 per centum, for the fiscal year ending September 30, 1979, of the average per pupil expenditure in public elementary and secondary schools in the United States;

(iii) 20 per centum, for the fiscal year ending September 30, 1980, of the average per pupil expenditure in public elementary and secondary schools in the United States;

(iv) 30 per centum, for the fiscal year ending September 30, 1981, of the average per pupil expenditure in public elementary and secondary schools in the United States; and

(v) 40 per centum, for the fiscal year ending September 30, 1982, and for each fiscal year thereafter, of the average per pupil expenditure in public elementary and secondary schools in the United States;

except that no State shall receive an amount which is less than the amount which such State received under this part for the fiscal year ending September 30, 1977.

(2) For the purpose of this subsection and subsection (b) through subsection (e), the term "State" does not include Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.[1]

(3) The number of children with disabilities receiving special education and related services in any fiscal year shall be equal to the number of such children receiving special education and related services on December 1 of the fiscal year preceding the fiscal year for which the determination is made.

(4) For purposes of paragraph (1)(B), the term "average per pupil expen during the most recent preceding fiscal year for which satisfactory data are available) of all local educational agencies in the United States (which, for purposes of this subsection, means

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[1] Section 802(d)(2) of Public Law 102–73 (105 Stat. 361) provided that section 611(a)(2) of the "Education of the Handicapped Act" is amended by striking "and the Trust Territory of the Pacific Islands" and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau". The amendment cannot be executed. See footnote 1 on page 231.

the fifty States and the District of Columbia), as the case manditure", in the United States, means the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made (or, if satisfactory data for such year are not available at the time of computation, they be, plus any direct expenditures by the State for operation of such agencies (without regard to the source of funds from which either of such expenditures are made), divided by the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.

(5)(A) In determining the allotment of each State under paragraph (1), the Secretary may not count—

(i) children with disabilities aged three to seventeen, inclusive, in such State under paragraph (1)(A) to the extent the number of such children is greater than 12 percent of the number of all children aged three to seventeen, inclusive, in such State and the State serves all children with disabilities aged three to five, inclusive, in the State pursuant to State law or practice or the order of any court,[1]

(ii) children with disabilities aged five to seventeen, inclusive, in such State under paragraph (1)(A) to the extent the number of such children is greater than 12 percent of the number of all children aged five to seventeen, inclusive, in such State and the State does not serve all children with disabilities aged three to five, inclusive, in the State pursuant to State law or practice or the order of any court; and

(iii) children with disabilities who are counted under subpart 2 of part D of chapter 1 of title 1[2] of the Elementary and Secondary Education Act of 1965.

(B) For purposes of subparagraph (A), the number of children aged three to seventeen, inclusive, in any State shall be determined by the Secretary on the basis of the most recent satisfactory data available to the Secretary.

(b)(1) Of the funds received under subsection (a) by any State for the fiscal year ending September 30, 1978—

(A) 50 per centum of such funds may be used by such State in accordance with the provisions of paragraph (2); and

(B) 50 per centum of such funds shall be distributed by such State pursuant to subsection (d) to local educational agencies and intermediate educational units in such State, for use in accordance with the priorities established under section 612(3).

(2) Of the funds which any State may use under paragraph (1)(A)—

(A) an amount which is equal to the greater of—

(i) 5 per centum of the total amount of funds received under this part by such State; or

(ii) $200,000;

may be used by such State for administrative costs related to carrying out sections 612 and 613;

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[1] So in law. The comma probably should be a semicolon.

[2] So in law. Probably should be "title I".

(B) the remainder shall be used by such State to provide support services and direct services, in accordance with the priorities established under section 612(3).

(c)(1) Of the funds received under subsection (a) by any State for the fiscal year ending September 30, 1979, and for each fiscal year thereafter—

(A) 25 per centum of such funds may be used by such State in accordance with the provisions of paragraph (2); and

(B) except as provided in paragraph (4), 75 per centum of such funds shall be distributed by such State pursuant to subsection (d) to local educational agencies and intermediate educational units in such State, for use in accordance with priorities established under section 612(3).

(2)(A) Subject to the provisions of subparagraph (B), of the funds which any State may use under paragraph (1)(A)—

(i) an amount which is equal to the greater of—

(I) 5 per centum of the total amount of funds received under this part by such State; or

(II) $450,000;

may be used by such State for administrative costs related to carrying out the provisions of sections 612 and 613; and

(ii) the part remaining after use in accordance with clause (i) shall be used by the State (I) to provide support services and direct services in accordance with the priorities established under section 612(3), and (II) for the administrative costs of monitoring and complaint investigation but only to the extent that such costs exceed the costs of administration incurred during fiscal year 1985.

(B) The amount expended by any State from the funds available to such State under paragraph (1)(A) in any fiscal year for the provision of support services or for the provision of direct services shall be matched on a program basis by such State, from funds other than Federal funds, for the provision of support services or for the provision of direct services for the fiscal year involved.

(3) The provisions of section 613(a)(9) shall not apply with respect to amounts available for use by any State under paragraph (2).

(4)(A) No funds shall be distributed by any State under this subsection in any fiscal year to any local educational agency or intermediate educational unit in such State if—

(i) such local educational agency or intermediate educational unit is entitled, under subsection (d), to less than $7,500 for such fiscal year; or

(ii) such local educational agency or intermediate educational unit has not submitted an application for such funds which meets the requirements of section 614.

(B) Whenever the provisions of subparagraph (A) apply, the State involved shall use such funds to assure the provision of a free appropriate education to children with disabilities residing in the area served by such local educational agency or such intermediate educational unit. The provisions of paragraph (2)(B) shall not apply to the use of such funds.

(d) From the total amount of funds available to local educational agencies and intermediate educational units in any State under subsection (b)(1)(B) or subsection (c)(1)(B), as the case may be, each local educational agency or intermediate educational unit shall be entitled to an amount which bears the same ratio to the total amount available under subsection (b)(1)(B) or subsection (c)(1)(B), as the case may be, as the number of children with disabilities aged three to twenty-one, inclusive, receiving special education and related services in such local educational agency or intermediate educational unit bears to the aggregate number of children with disabilities aged three to twenty-one, inclusive, receiving special education and related services in all local educational agencies and intermediate educational units which apply to the State educational agency involved for funds under this part.

(e)(1) The jurisdictions to which this subsection applies are Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.[1]

(2) Each jurisdiction to which this subsection applies shall be entitled to a grant for the purposes set forth in section 601(c) in an amount equal to an amount determined by the Secretary in accordance with criteria based on respective needs, except that the aggregate of the amount to which such jurisdictions are so entitled for any fiscal year shall not exceed an amount equal to 1 per centum of the aggregate of the amounts available to all States under this part for that fiscal year. If the aggregate of the amounts, determined by the Secretary pursuant to the preceding sentence, to be so needed for any fiscal year exceeds an amount equal to such 1 per centum limitation, the entitlement of each such jurisdiction shall be reduced proportionately until such aggregate does not exceed such 1 per centum limitation.

(3) The amount expended for administration by each jurisdiction under this subsection shall not exceed 5 per centum of the amount allotted to such jurisdiction for any fiscal year, or $35,000, whichever is greater.

(f)(1) The Secretary shall make payments to the Secretary of the Interior to meet the need for assistance for the education of children with disabilities on reservations aged 5–21, inclusive, enrolled in elementary and secondary schools for Indian children operated or funded by the Secretary of the Interior. In the case of Indian students ages 3–5, inclusive, who are enrolled in programs affiliated with Bureau of Indian Affairs (hereafter in this subsection referred to as "BIA") schools and that are required by the States in which such schools are located to attain or maintain State accreditation, and which schools have such accreditation prior to the date of enactment of the Individuals with Disabilities Education Act Amendments of 1991, the school shall be allowed to count those children for the purpose of distribution of the funds provided under this paragraph to the Secretary of the Interior. The Secretary of the Interior shall be responsible for meeting all of the requirements of this part for these children, in accordance with paragraph (3). The amount of such payment for any fiscal year shall be 1 percent of the aggregate amounts available for all States under this section for that fiscal year.

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[1] Section 802(d)(3) of Public Law 102–73 (105 Stat. 361) provided that section 611(e)(1) of the "Education of the Handicapped Act" is amended by striking "and the Trust Territory of the Pacific Islands" and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99–658)". See footnote 1 on page 231.

Section 25(a)(19) of Public Law 102–119 (105 Stat. 606) purported to amend subsection (e)(1), but the amendment cannot be executed because the amendment assumed the execution of the amendment described in section 802(d)(3) of Public Law 102–73 (which cannot be executed).

(2) With respect to all other children aged 3–21, inclusive, on reservations, the State educational agency shall be responsible for ensuring that all of the requirements of this part are implemented.

(3) The Secretary of the Interior may receive an allotment under paragraph (1) only after submitting to the Secretary of Education an application that—

(A) meets the appropriate requirements, as determined by the Secretary of Education, of sections 612 (including monitoring and evaluation activities), 613, and 614(a);

(B) includes a description of how the Secretary of the Interior will coordinate the provision of services under this part with local educational agencies, tribes and tribal organizations, and other private and Federal service providers;

(C) includes an assurance that there are public hearings, adequate notice of such hearings, and an opportunity for comment afforded to members of tribes, tribal governing bodies, and affected local school boards before the adoption of the policies, programs, and procedures required under subparagraph (A);

(D) includes an assurance that the Secretary of the Interior will provide such information as the Secretary of Education may require to comply with section 618(b)(1), including data on the number of children and youth with disabilities served and the types and amounts of services provided and needed and this information shall be included in the annual report of the Secretary of Education to Congress required in section 618(g);

(E) includes an assurance that, by October 1, 1992, the Secretaries of the Interior and Health and Human Services will enter into a memorandum of agreement, to be provided to the Secretary of Education, for the coordination of services, resources, and personnel between their respective Federal, State, and local offices and with State and local educational agencies and other entities to facilitate the provision of services to Indian children with disabilities residing on or near reservations. Such agreement shall provide for the apportionment of responsibilities and costs including, but not limited to, child find, evaluation, diagnosis, remediation or therapeutic measures, and (where appropriate) equipment and medical/personal supplies as needed for a child to remain in school or a program; and

(F) includes an assurance that the Department of the Interior will cooperate with the Department of Education in its exercise of monitoring and oversight of this application, and any agreements entered into between the Secretary of the Interior and other entities under this Act, and will fulfill its duties under this Act.

Section 616(a) shall apply to any such application.

(4)(A) Beginning with funds appropriated under section 611(a) for fiscal year 1992, the Secretary shall, subject to this paragraph, make payments to the Secretary of the Interior to be distributed to tribes or tribal organizations (as defined under section 4 of the Indian Self-Determination and Education Assistance Act) or consortiums of the above to provide for the coordination of assistance for special education and related services for children with disabilities aged 3–5, inclusive, on reservations served by elementary and secondary schools for Indian children operated or funded by the Department of the Interior. The amount of such payments under subparagraph (B) for any fiscal year shall be .25 percent of the aggregate amounts available for all States under this section for that fiscal year.

(B) The Secretary of the Interior shall distribute the total amount of the .25 percent under subparagraph (A) in the following manner:

(i) For the first fiscal year, each tribe or tribal organization shall receive an amount proportionate to the amount of weighted student units for special education programs for BIA operated or funded schools serving such reservation generated under the formula established under section 1128 of the Education Amendments of 1978, divided by the total number of such students in all BIA operated or funded schools.

(ii) For each fiscal year thereafter, each tribe or tribal organization shall receive an amount based on the number of children with disabilities, ages 3–5, inclusive, residing on reservations as reported annually divided by the total of such children served by all tribes or tribal organizations.

(C) To receive a payment under this paragraph, the tribe or tribal organization shall submit such figures to the Secretary of the Interior as required to determine the amounts to be allocated under subparagraph (B). This information shall be compiled and submitted to the Secretary of Education.

(D) The funds received by a tribe or tribal organization shall be used to assist in child find, screening, and other procedures for the early identification of children aged 3–5, inclusive, parent training, and the provision of direct services. These activities may be carried out directly or through contracts or cooperative agreements with the BIA, local educational agencies, and other public or private nonprofit organizations. The tribe or tribal organization is encouraged to involve Indian parents in the development and implementation of these activities. The above entities shall, as appropriate, make referrals to local, State, or Federal entities for the provision of services or further diagnosis.

(E) To be eligible to receive a grant pursuant to subparagraph (A), the tribe or tribal organization shall make a biennial report to the Secretary of the Interior of activities undertaken under this paragraph, including the number of contracts and cooperative agreements entered into, the number of children contacted and receiving services for each year and the estimated number of children needing services during the 2 years following the one in which the report is made. The Secretary of the Interior shall include a summary of this information on a biennial basis in the report to the Secretary of Education required under this subsection. The Secretary of Education may require any additional information from the Secretary of the Interior.

(F) The Secretary of the Interior shall offer and, on request, provide technical assistance (especially in the areas of child find, diagnosis, and referral) to State and local educational agencies (where appropriate, intermediate educational units), and tribes and tribal organizations. Such assistance may be provided through its divisions and offices at the national and local level.

(G) None of the funds allocated under this paragraph can be used by the Secretary of the Interior for administrative purposes, including child count, and the provision of technical assistance.

(5) Before January 1, 1992, the Secretary of the Interior shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a plan for the coordination of services for all Indian children with disabilities residing on reservations covered under this Act. Such plan shall provide for the coordination of services benefiting these children from whatever source, including tribes, the Indian Health Service, other BIA divisions, and other Federal agencies. In developing such a plan, the Secretary of the Interior shall consult with all interested and involved parties. It shall be based upon the needs of the children and the system best suited for meeting those needs, and may involve the establishment of cooperative agreements between the BIA, other Federal agencies, and other entities. Such plan shall also be distributed upon request to States, State and local educational agencies, and other agencies providing services to infants, toddlers, children, and youth with disabilities, to tribes, and to other interested parties.

(6) To meet the requirements of sections 613(a)(12) of this Act, the Secretary of the Interior shall establish, within 6 months of the date of the enactment of the Individuals with Disabilities Education Act Amendments of 1991, under the Bureau of Indian Affairs (BIA), an advisory board composed of individuals involved in or concerned with the education and provision of services to Indian infants, toddlers, children, and youth with disabilities, including Indians with disabilities, Indian parents or guardians of such children, teachers, service providers, State and local educational officials, representatives of tribes or tribal organizations, representatives from State Interagency Coordinating Councils in States having reservations, and other members representing the various divisions and entities of the BIA. The chairperson shall be selected by the Secretary of the Interior. The advisory board shall—

(A) assist in the coordination of services within BIA and with other local, State, and Federal agencies in the provision of education for infants, toddlers, children, and youth with disabilities;

(B) advise and assist the Secretary of the Interior in the performance of the Secretary's responsibilities described in this subsection;

(C) develop and recommend policies concerning effective inter- and intra-agency collaboration, including modifications to regulations, and the elimination of barriers to inter- and intra-agency programs and activities;

(D) provide assistance and disseminate information on best practices, effective program coordination strategies, and recommendations for improved educational programming for Indian infants, toddlers, children, and youth with disabilities; and

(E) provide assistance in the preparation of information required under paragraph (3)(D).

(g)(1) If the sums appropriated under subsection (h) for any fiscal year for making payments to States under subsection (a) are not sufficient to pay in full the total amounts which all States are entitled to receive under subsection (a) for such fiscal year, the maximum amounts which all States are entitled to receive under subsection (a) for such fiscal year shall be ratably reduced. In case additional funds become available for making such payments for any fiscal year during which the preceding sentence is applicable, such reduced amounts shall be increased on the same basis as they were reduced.

(2) In the case of any fiscal year in which the maximum amounts for which States are eligible have been reduced under the first sentence of paragraph (1), and in which additional funds have not been made available to pay in full the total of such maximum amounts under the last sentence of such paragraph, the State educational agency shall fix dates before which each local educational agency or intermediate educational unit shall report to the State educational agency on the amount of funds available to the local educational agency or intermediate educational unit, under the provisions of subsection (d), which it estimates that it will expend in accordance with the provisions of this section. The amounts so available to any local educational agency or intermediate educational unit, or any amount which would be available to any other local educational agency or intermediate educational unit if it were to submit a program meeting the requirements of this part, which the State educational agency determines will not be used for the period of its availability, shall be available for allocation to those local educational agencies or intermediate educational units, in the manner provided by this section, which the State educational agency determines will need and be able to use additional funds to carry out approved programs.

(h) For grants under subsection (a) there are authorized to be appropriated such sums as may be necessary.

(20 U.S.C. 1411) Enacted April 13, 1970, P.L. 91–230, Title VI, sec. 611, 84 Stat. 178; amended August 21, 1974, P.L. 93–380, sec. 614(a), 88 Stat. 580, 581; amended November 29, 1975, P.L. 94–142, sec. 5(a), 89 Stat. 776, 777, 778, 779, 780; amended June 14, 1980, P.L. 96-270, sec. 13, 94 Stat. 498; amended December 2, 1983, P.L. 98–199, sec. 15, 97 Stat. 1374; amended November 22, 1985, P.L. 99–159, Sec. 601, 99 Stat. 904; amended October 8, 1986, P.L. 99–457, sec. 201(b), 403, 404, 100 Stat. 1158, 1173; amended November 7, 1988, P.L. 100–690, sec. 102(a), 102 Stat. 3290–3291; amended October 30, 1990, P.L. 101–476, secs. 201 and 901(b)(25)–(32), 104 Stat. 1111, 1143; amended October 7, 1991, P.L. 102–119, secs. 4 and 25(a)(4) and (19), 105 Stat. 587 and 606.

ELIGIBILITY

SEC. 612. In order to qualify for assistance under this part in any fiscal year, a State shall demonstrate to the Secretary that the following conditions are met:

(1) The State has in effect a policy that assures all children with disabilities the right to a free appropriate public education.

(2) The State has developed a plan pursuant to section 613(b) in effect prior to the date of the enactment of the Education for All Handicapped Children Act of 1975 and submitted not later than August 21, 1975, which will be amended so as to comply with the provisions of this paragraph. Each such amended plan shall set forth in detail the policies and procedures which the State will undertake or has undertaken in order to assure that—

(A) there is established (i) a goal of providing full educational opportunity to all children with disabilities, (ii) a detailed timetable for accomplishing such a goal, and (iii) a description of the kind and number of facilities, personnel, and services necessary throughout the State to meet such a goal;

(B) a free appropriate public education will be available for all children with disabilities between the ages of three and eighteen within the State not later than September 1, 1978, and for all children with disabilities between the ages of three and twenty-one within the State not later than September 1, 1980, except that, with respect to children with disabilities aged three to five and aged eighteen to twenty-one, inclusive, the requirements of this clause shall not be applied in any State if the application of such requirements would be inconsistent with State law or practice, or the order of any court, respecting public education within such age groups in the State;

(C) all children residing in the State who are disabled, regardless of the severity of their disability, and who are in need of special education and related services are identified, located, and evaluated, and that a practical method is developed and implemented to determine which children are currently receiving needed special education and related services and which children are not currently receiving needed special education and related services;

(D) policies and procedures are established in accordance with detailed criteria prescribed under section 617(c); and

(E) any amendment to the plan submitted by the State required by this section shall be available to parents, guardians, and other members of the general public at least thirty days prior to the date of submission of the amendment to the Secretary.

(3) The State has established priorities for providing a free appropriate public education to all children with disabilities, which priorities shall meet the timetables set forth in clause (B) of paragraph (2) of this section, first with respect to children with disabilities who are not receiving an education, and second with respect to children with disabilities, within each disability category, with the most severe disabilities who are receiving an inadequate education, and has made adequate

progress in meeting the timetables set forth in clause (B) of paragraph (2) of this section.

(4) Each local educational agency in the State will maintain records of the individualized education program for each child with a disability, and such program shall be established, reviewed, and revised as provided in section 614(a)(5).

(5) The State has established (A) procedural safeguards as required by section 615, (B) procedures to assure that, to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and that special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily, and (C) procedures to assure that testing and evaluation materials and procedures utilized for the purposes of evaluation and placement of children with disabilities will be selected and administered so as not to be racially or culturally discriminatory. Such materials or procedures shall be provided and administered in the child's native language or mode of communication, unless it clearly is not feasible to do so, and no single procedure shall be the sole criterion for determining an appropriate educational program for a child.

(6) The State educational agency shall be responsible for assuring that the requirements of this part are carried out and that all educational programs for children with disabilities within the State, including all such programs administered by any other State or local agency, will be under the general supervision of the persons responsible for educational programs for children with disabilities in the State educational agency and shall meet educational standards of the State educational agency. This paragraph shall not be construed to limit the responsibility of agencies other than educational agencies in a State from providing or paying for some or all of the costs of a free appropriate public education to be provided children with disabilities in the State.

(7) The State shall assure that (A) in carrying out the requirements of this section procedures are established for consultation with individuals involved in or concerned with the education of children with disabilities, including individuals with disabilities and parents or guardians of children with disabilities, and (B) there are public hearings, adequate notice of such hearings, and an opportunity for comment available to the general public prior to adoption of the policies, programs, and procedures required pursuant to the provisions of this section and section 613.

(20 U.S.C. 1412) Enacted April 13, 1970, P.L. 91–230, Title VI, sec. 612, 84 Stat. 178; amended June 23, 1972, P.L. 92–318, sec. 421(b)(1)(C), 86 Stat. 341; amended August 21, 1974, P.L. 93–380, sec. 614(b)(1), 88 Stat. 582; amended November 29, 1975, P.L. 94–142, sec. 5(a), 89 Stat. 780, 781, 782; amended October 8, 1986, P.L. 99–457, sec. 203(a), 100 Stat. 1158; amended November 7, 1988, P.L. 100–630, sec. 102(b), 102 Stat. 3291; amended October 30, 1990, P.L. 101–476, sec. 901 (b)(33)–

(46), (c), 104 Stat. 1143–44, 1151; amended October 7, 1991, P.L. 102–119, sec. 25(a), 105 Stat. 606.

STATE PLANS

SEC. 613. (a) Any State meeting the eligibility requirements set forth in section 612 and desiring to participate in the program under this part shall submit to the Secretary, through its State educational agency, a State plan at such time, in such manner, and containing or accompanied by such information, as the Secretary deems necessary. Each such plan shall—

(1) set forth policies and procedures designed to assure that funds paid to the State under this part will be expended in accordance with the provisions of this part, with particular attention given to the provisions of sections 611(b), 611(c), 611(d), 612(2), and 612(3);

(2) provide that programs and procedures will be established to assure that funds received by the State or any of its political subdivisions under any other Federal program, including subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965, under which there is specific authority for the provision of assistance for the education of children with disabilities, will be utilized by the State, or any of its political subdivisions, only in a manner consistent with the goal of providing a free appropriate public education for all children with disabilities, except that nothing in this clause shall be construed to limit the specific requirements of the laws governing such Federal programs;

(3) describe, consistent with the purposes of this Act and with the comprehensive system of personnel development described in section 676(b)(8), a comprehensive system of personnel development that shall include—

(A) a description of the procedures and activities the State will undertake to ensure an adequate supply of qualified special education and related services personnel, including—

(i) the development and maintenance of a system for determining, on an annual basis—

(I) the number and type of personnel, including leadership personnel, that are employed in the provision of special education and related services, by area of specialization, including the number of such personnel who are employed on an emergency, provisional, or other basis, who do not hold appropriate State certification or licensure; and

(II) the number and type of personnel, including leadership personnel, needed, and a projection of the numbers of such personnel that will be needed in five years, based on projections of individuals to be served, retirement and other leaving of personnel from the field, and other relevant factors;

(ii) the development and maintenance of a system for determining, on an annual basis, the institutions of higher education within the State that are preparing special education and related services personnel, including leadership personnel, by area of specialization, including—

(I) the numbers of students enrolled in such programs, and

(II) the number who graduated with certification or licensure, or with credentials to qualify for certification or licensure, during the past year; and

(iii) the development, updating, and implementation of a plan that—

(I) will address current and projected special education and related services personnel needs, including the need for leadership personnel; and

(II) coordinates and facilitates efforts among State and local educational agencies, institutions of higher education, and professional associations to recruit, prepare, and retain qualified personnel, including personnel from minority backgrounds, and personnel with disabilities; and

(B) a description of the procedures and activities the State will undertake to ensure that all personnel necessary to carry out this part are appropriately and adequately prepared, including—

(i) a system for the continuing education of regular and special education and related services personnel;

(ii) procedures for acquiring and disseminating to teachers, administrators, and related services personnel significant knowledge derived from education research and other sources; and

(iii) procedures for adopting, where appropriate, promising practices, materials, and technology.[1]

(4) set forth policies and procedures to assure—

(A) that, to the extent consistent with the number and location of children with disabilities in the State who are enrolled in private elementary and secondary schools, provision is made for the participation of such children in the program assisted or carried out under this part by providing for such children special education and related services; and

(B) that—

(i) children with disabilities in private schools and facilities will be provided special education and related services (in conformance with an individualized education program as required by this part) at no cost to their parents or guardian, if such children are placed in or referred to such schools or facilities by the State or appropriate local educational agency as the means of carrying out the requirements of this part or any other applicable law requiring the provision of special education and related services to all children with disabilities within such State, and

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[1] So in law. Probably should be a semicolon. See P.L. 101-476, sec. 202, 104 Stat. 1111.

(ii) in all such instances, the State educational agency shall determine whether such schools and facilities meet standards that apply to State and local educational agencies and that children so served have all the rights they would have if served by such agencies;

(5) set forth policies and procedures which assure that the State shall seek to recover any funds made available under this part for services to any child who is determined to be erroneously classified as eligible to be counted under section 611(a) or section 611(d);

(6) provide satisfactory assurance that the control of funds provided under this part, and title to property derived therefrom, shall be in a public agency for the uses and purposes provided in this part, and that a public agency will administer such funds and property;

(7) provide for—

(A) making such reports in such form and containing such information as the Secretary may require to carry out the Secretary's functions under this part, and

(B) keeping such records and affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports and proper disbursement of Federal funds under this part;

(8) provide procedures to assure that final action with respect to any application submitted by a local educational agency or an intermediate educational unit shall not be taken without first affording the local educational agency or intermediate educational unit involved reasonable notice and opportunity for a hearing;

(9) provide satisfactory assurance that Federal funds made available under this part—

(A) will not be commingled with State funds, and

(B) will be so used as to supplement and increase the level of Federal, State, and local funds (including funds that are not under the direct control of State or local educational agencies) expended for special education and related services provided to children with disabilities under this part and in no case to supplant such Federal, State and local funds, except that, where the State provides clear and convincing evidence that all children with disabilities have available to them a free appropriate public education, the Secretary may waive in part the requirement of this subparagraph if the Secretary concurs with the evidence provided by the State;

(10) provide, consistent with procedures prescribed pursuant to section 617(a)(2), satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this part to the State, including any such funds paid by the State to local educational agencies and intermediate educational units;

(11) provide for procedures for evaluation at least annually of the effectiveness of programs in meeting the educational needs of children with disabilities (including evaluation of individualized education programs), in accordance with such criteria that the Secretary shall prescribe pursuant to section 617;

(12) provide that the State has an advisory panel, appointed by the Governor or any other official authorized under State law to make such appointments, composed of individuals involved in or concerned with the education of children with disabilities, including individuals with disabilities, teachers, parents or guardians of children with disabilities, State and local education officials, and administrators of programs for children with disabilities, which—

(A) advises the State educational agency of unmet needs within the State in the education of children with disabilities,

(B) comments publicly on any rules or regulations proposed for issuance by the State regarding the education of children with disabilities and the procedures for distribution of funds under this part, and

(C) assists the State in developing and reporting such data and evaluations as may assist the Secretary in the performance of the responsibilities of the Secretary under section 618;

(13) set forth policies and procedures for developing and implementing interagency agreements between the State educational agency and other appropriate State and local agencies to—

(A) define the financial responsibility of each agency for providing children and youth with disabilities with free appropriate public education, and

(B) resolve interagency disputes, including procedures under which local educational agencies may initiate proceedings under the agreement in order to secure reimbursement from other agencies or otherwise implement the provisions of the agreement;

(14) set forth policies and procedures relating to the establishment and maintenance of standards to ensure that personnel necessary to carry out the purposes of this part are appropriately and adequately prepared and trained, including—

(A) the establishment and maintenance of standards which are consistent with any State approved or recognized certification, licensing, registration, or other comparable requirements which apply to the area in which such personnel are providing special education or related services, and

(B) to the extent such standards are not based on the highest requirements in the State applicable to a specific profession or discipline, the steps the State is taking to require the retraining or hiring of personnel that meet appropriate professional requirements in the State; and

(15) set forth policies and procedures relating to the smooth transition for those individuals participating in the

early intervention program assisted under part H who will participate in preschool programs assisted under this part, including a method of ensuring that when a child turns age three an individualized education program, or, if consistent with sections 614(a)(5) and 677(d), an individualized family service plan, has been developed and is being implemented by such child's third birthday.

(b) Whenever a State educational agency provides free appropriate public education for children with disabilities, or provides direct services to such children, such State educational agency shall include, as part of the State plan required by subsection (a) of this section, such additional assurances not specified in such subsection (a) as are contained in section 614(a), except that funds available for the provision of such education or services may be expended without regard to the provisions relating to excess costs in section 614(a).

(c)(1) The Secretary shall approve any State plan and any modification thereof which—

(A) is submitted by a State eligible in accordance with section 612; and

(B) meets the requirements of subsection (a) and subsection (b).

(2) The Secretary shall disapprove any State plan which does not meet the requirements of paragraph (1), but shall not finally disapprove a State plan except after reasonable notice and opportunity for a hearing to the State.

(d)(1) If, on the date of enactment of the Education of the Handicapped Act Amendments of 1983, a State educational agency is prohibited by law from providing for the participation in special programs of children with disabilities enrolled in private elementary and secondary schools as required by subsection (a)(4), the Secretary shall waive such requirement, and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a)(4).

(2)(A) When the Secretary arranges for services pursuant to this subsection, the Secretary, after consultation with the appropriate public and private school officials, shall pay to the provider of such services an amount per child which may not exceed the Federal amount provided per child under this part to all children with disabilities enrolled in the State for services for the fiscal year preceding the fiscal year for which the determination is made.

(B) Pending final resolution of any investigation or complaint that could result in a determination under this subsection, the Secretary may withhold from the allocation of the affected State educational agency the amount the Secretary estimates would be necessary to pay the cost of such services.

(C) Any determination by the Secretary under this section shall continue in effect until the Secretary determines that there will no longer be any failure or inability on the part of the State educational agency to meet the requirements of subsection (a)(4).

(3)(A) The Secretary shall not take any final action under this subsection until the State educational agency affected by such action has had an opportunity, for at least 45 days after receiving written notice thereof, to submit written objections and to appear before the Secretary or the Secretary's designee to show cause why such action should not be taken.

(B) If a State educational agency is dissatisfied with the Secretary's final action after a proceeding under subparagraph (A) of this paragraph, it may, within 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary based the Secretary's action, as provided in section 2112 of title 28, United States Code.

(C) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(D) Upon the filing of a petition under subparagraph (B), the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(e) This Act shall not be construed to permit a State to reduce medical and other assistance available or to alter eligibility under titles V and XIX of the Social Security Act with respect to the provision of a free appropriate public education for children with disabilities within the State.

(20 U.S.C. 1413) Enacted April 13, 1970, P.L. 91–230, Title VI, sec. 613, 84 Stat. 179; amended August 21, 1974, P.L. 93–380, sec. 614(d), 88 Stat. 581, 582; amended November 29, 1975, P.L. 94–142, sec. 5(a), 89 Stat. 782, 783, 784; ; amended December 2, 1983, P.L. 98–199, sec. 7, 97 Stat. 1359; amended October 8, 1986, P.L. 99–457, sec. 203(b), 405, 100 Stat. 1159, 1174; amended November 7, 1988, P.L. 100–630, sec. 102(c), 102 Stat. 3291–3293; amended October 30, 1990, P.L. 101–476, secs. 202 and 901(b)(47)–(58), 104 Stat. 1111–12, 1144; amended October 7, 1991, P.L. 102–119, secs. 5 and 25(a)(6), 105 Stat. 591 and 606.

APPLICATION

SEC. 614. (a) A local educational agency or an intermediate educational unit which desires to receive payments under section 611(d) for any fiscal year shall submit an application to the appropriate State educational agency. Such application shall—

(1) provide satisfactory assurance that payments under this part will be used for excess costs directly attributable to programs which—

(A) provide that all children residing within the jurisdiction of the local educational agency or the intermediate educational unit who are disabled, regardless of the severity of their disability, and are in need of special education and related services will be identified, located, and evaluated, and provide for the inclusion of a practical method of determining which children are currently receiving needed special education and related services and which children are not currently receiving such education and services;

(B) establish policies and procedures in accordance with detailed criteria prescribed under section 617(c);

(C) establish a goal of providing full educational opportunities to all children with disabilities, including—

(i) procedures for the implementation and use of the comprehensive system of personnel development established by the State educational agency under section 613(a)(3);

(ii) the provision of, and the establishment of priorities for providing, a free appropriate public education to all children with disabilities, first with respect to handicapped children who are not receiving an education, and second with respect to children with disabilities, within each disability, with the most severe disabilities who are receiving an inadequate education;

(iii) the participation and consultation of the parents or guardian of such children; and

(iv) to the maximum extent practicable and consistent with the provisions of section 612(5)(B), the provision of special services to enable such children to participate in regular educational programs;

(D) establish a detailed timetable for accomplishing the goal described in subclause (C); and

(E) provide a description of the kind and number of facilities, personnel, and services necessary to meet the goal described in subclause (C);

(2) provide satisfactory assurance that—

(A) the control of funds provided under this part, and title to property derived from such funds, shall be in a public agency for the uses and purposes provided in this part, and that a public agency will administer such funds and property,

(B) Federal funds expended by local educational agencies and intermediate educational units for programs under this part—

(i) shall be used to pay only the excess costs directly attributable to the education of children with disabilities; and

(ii) shall be used to supplement and, to the extent practicable, increase the level of State and local funds expended for the education of children with disabilities, and in no case to supplant such State and local funds; and

(C) State and local funds will be used in the jurisdiction of the local educational agency or intermediate educational unit to provide services in program areas that, taken as a whole, are at least comparable to services being provided in areas of such jurisdiction that are not receiving funds under this part;

(3) provide for—

(A) furnishing such information (which, in the case of reports relating to performance, is in accordance with specific performance criteria related to program objectives), as may be necessary to enable the State educational agency to perform its duties under this part, including information relating to the educational achievement of children with disabilities participating in programs carried out under this part; and

(B) keeping such records, and affording such access to such records, as the State educational agency may find necessary to assure the correctness and verification of such information furnished under subparagraph (A);

(4) provide for making the application and all pertinent documents related to such application available to parents, guardians, and other members of the general public, and provide that all evaluations and reports required under clause (3) shall be public information;

(5) provide assurances that the local educational agency or intermediate educational unit will establish or revise, whichever is appropriate, an individualized education program for each child with a disability (or, if consistent with State policy and at the discretion of the local educational agency or intermediate educational unit, and with the concurrence of the parents or guardian, an individualized family service plan described in section 677(d) for each child with a disability aged 3 to 5, inclusive) at the beginning of each school year and will then review and, if appropriate, revise, its provisions periodically, but not less than annually;

(6) provide satisfactory assurance that policies and programs established and administered by the local educational agency or intermediate educational unit shall be consistent with the provisions of paragraph (1) through paragraph (7) of section 612 and section 613(a); and

(7) provide satisfactory assurance that the local educational agency or intermediate educational unit will establish and maintain procedural safeguards in accordance with the provisions of sections 612(5)(B), 612(5)(C), and 615.

(b)(1) A State educational agency shall approve any application submitted by a local educational agency or an intermediate educational unit under subsection (a) if the State educational agency determines that such application meets the requirements of subsection (a), except that no such application may be approved until the State plan submitted by such State educational agency under subsection (a) is approved by the Secretary under section 613(c). A State educational agency shall disapprove any application submitted by a local educational agency or an intermediate educational unit under subsection (a) if the State educational agency determines that such application does not meet the requirements of subsection (a).

(2)(A) Whenever a State educational agency, after reasonable notice and opportunity for a hearing, finds that a local educational agency or an intermediate educational unit, in the administration of an application approved by the State educational agency under paragraph (1), has failed to comply with any requirement set forth in such application, the State educational agency, after giving appropriate notice to the local educational agency or the intermediate educational unit, shall—

(i) make no further payments to such local educational agency or such intermediate educational unit under section 620 until the State educational agency is satisfied that there is no longer any failure to comply with the requirement involved; or

(ii) take such finding into account in its review of any application made by such local educational agency or such intermediate educational unit under subsection (a).

(B) The provisions of the last sentence of section 616(a) shall apply to any local educational agency or any intermediate educational unit receiving any notification from a State educational agency under this paragraph.

(3) In carrying out its functions under paragraph (1), each State educational agency shall consider any decision made pursuant to a hearing held under section 615 which is adverse to the local educational agency or intermediate educational unit involved in such decision.

(c)(1) A State educational agency may, for purposes of the consideration and approval of applications under this section, require local educational agencies to submit a consolidated application for payments if such State educational agency determines that any individual application submitted by any such local educational agency will be disapproved because such local educational agency is ineligible to receive payments because of the application of section 611(c)(4)(A)(i) or such local educational agency would be unable to establish and maintain programs of sufficient size and scope to effectively meet the educational needs of children with disabilities.

(2)(A) In any case in which a consolidated application of local educational agencies is approved by a State educational agency under paragraph (1), the payments which such local educational agencies may receive shall be equal to the sum of payments to which each such local educational agency would be entitled under section 611(d) if an individual application of any such local educational agency had been approved.

(B) The State educational agency shall prescribe rules and regulations with respect to consolidated applications submitted under this subsection which are consistent with the provisions of paragraph (1) through paragraph (7) of section 612 and section 613(a) and which provide participating local educational agencies with joint responsibilities for implementing programs receiving payments under this part.

(C) In any case in which an intermediate educational unit is required pursuant to State law to carry out the provisions of this part, the joint responsibilities given to local educational agencies under subparagraph (B) shall not apply to the administration and disbursement of any payments received by such intermediate educational unit. Such responsibilities shall be carried out exclusively by such intermediate educational unit.

(d) Whenever a State educational agency determines that a local educational agency—

(1) is unable or unwilling to establish and maintain programs of free appropriate public education which meet the requirements established in subsection (a);

(2) is unable or unwilling to be consolidated with other local educational agencies in order to establish and maintain such programs; or

(3) has one or more children with disabilities who can best be served by a regional or State center designed to meet the needs of such children;

the State educational agency shall use the payments which would have been available to such local educational agency to provide special education and related services directly to children with disabilities residing in the area served by such local educational agency. The State educational agency may provide such education and services in such manner, and at such locations (including regional or State centers), as it considers appropriate, except that the manner in which such education and services are provided shall be consistent with the requirements of this part.

(e) Whenever a State educational agency determines that a local educational agency is adequately providing a free appropriate public education to all children with disabilities residing in the area served by such agency with State and local funds otherwise available to such agency, the State educational agency may reallocate funds (or such portion of those funds as may not be required to provide such education and services) made available to such agency, pursuant to section 611(d), to such other local educational agencies within the State as are not adequately providing special education and related services to all children with disabilities residing in the areas served by such other local educational agencies.

(f) Notwithstanding the provisions of subsection (a)(2)(B)(ii), any local educational agency which is required to carry out any program for the education of children with disabilities pursuant to a State law shall be entitled to receive payments under section 611(d) for use in carrying out such program, except that such payments may not be used to reduce the level of expenditures for such program made by such local educational agency from State or local funds below the level of such expenditures for the fiscal year prior to the fiscal year for which such local educational agency seeks such payments.

(20 U.S.C. 1414) Enacted April 13, 1970, P.L. 91–230, Title VI, sec. 614, 84 Stat. 181; amended November 29, 1975, P.L. 94–142, sec. 5(a), 89 Stat. 784, 785, 786, 787, 788; amended November 7, 1988, P.L. 100–630, sec. 102(d), 102 Stat. 3293–3294; amended October 30, 1990, P.L. 101–476, sec. 901(b)(59)–(70), 104 Stat. 1144–45; amended October 7, 1991, P.L. 102–119, sec. 6, 105 Stat. 591.

PROCEDURAL SAFEGUARDS

SEC. 615. (a) Any State educational agency, any local educational agency, and any intermediate educational unit which receives assistance under this part shall establish and maintain procedures in accordance with subsection (b) through subsection (e) of this section to assure that children with disabilities and their parents or guardians are guaranteed procedural safeguards with respect to the provision of free appropriate public education by such agencies and units.

(b)(1) The procedures required by this section shall include, but shall not be limited to—

(A) an opportunity for the parents or guardian of a child with a disability to examine all relevant records with respect to the identification, evaluation, and educational placement of the child, and the provision of a free appropriate public education to such child, and to obtain an independent educational evaluation of the child;

(B) procedures to protect the rights of the child whenever the parents or guardian of the child are not known, unavailable, or the child is a ward of the State, including the assignment of an individual (who shall not be an employee of the State educational agency, local educational agency, or intermediate educational unit involved in the education or care of the child) to act as a surrogate for the parents or guardian;

(C) written prior notice to the parents or guardian of the child whenever such agency or unit—

(i) proposes to initiate or change, or

(ii) refuses to initiate or change,

the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child;

(D) procedures designed to assure that the notice required by clause (C) fully informs the parents or guardian, in the parents' or guardian's native language, unless it clearly is not feasible to do so, of all procedures available pursuant to this section; and

(E) an opportunity to present complaints with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child.

(2) Whenever a complaint has been received under paragraph (1) of this subsection, the parents or guardian shall have an opportunity for an impartial due process hearing which shall be conducted by the State educational agency or by the local educational agency or intermediate educational unit, as determined by State law or by the State educational agency. No hearing conducted pursuant to the requirements of this paragraph shall be conducted by an employee of such agency or unit involved in the education or care of the child.

(c) If the hearing required in paragraph (2) of subsection (b) of this section is conducted by a local educational agency or an intermediate educational unit, any party aggrieved by the findings and decision rendered in such a hearing may appeal to the State educational agency which shall conduct an impartial review of such hearing. The officer conducting such review shall make an independent decision upon completion of such review.

(d) Any party to any hearing conducted pursuant to subsections (b) and (c) shall be accorded—

(1) the right to be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities,

(2) the right to present evidence and confront, cross-examine, and compel the attendance of witnesses,

(3) the right to a written or electronic verbatim record of such hearing, and

(4) the right to written findings of fact and decisions (which findings and decisions shall be made available to the public consistent with the requirements of section 617(c) and shall also be transmitted to the advisory panel established pursuant to section 613(a)(12)).

(e)(1) A decision made in a hearing conducted pursuant to paragraph (2) of subsection (b) shall be final, except that any party involved in such hearing may appeal such decision under the provisions of subsection (c) and paragraph (2) of this subsection. A decision made under subsection (c) shall be final, except that any party may bring an action under paragraph (2) of this subsection.

(2) Any party aggrieved by the findings and decision made under subsection (b) who does not have the right to an appeal under subsection (c), and any party aggrieved by the findings and decision under subsection (c), shall have the right to bring a civil action with respect to the complaint presented pursuant to this section, which action may be brought in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy. In any action brought under this paragraph the court shall receive the records of the administrative proceedings, shall hear additional evidence at the request of a party, and, basing its decision on the preponderance of the evidence, shall grant such relief as the court determines is appropriate.

(3) During the pendency of any proceedings conducted pursuant to this section, unless the State or local educational agency and the parents or guardian otherwise agree, the child shall remain in the then current educational placement of such child, or, if applying for initial admission to a public school, shall, with the consent of the parents or guardian, be placed in the public school program until all such proceedings have been completed.

(4)(A) The district courts of the United States shall have jurisdiction of actions brought under this subsection without regard to the amount in controversy.

(B) In any action or proceeding brought under this subsection, the court, in its discretion, may award reasonable attorneys' fees as part of the costs to the parents or guardian of a child or youth with a disability who is the prevailing party.

(C) For the purpose of this subsection, fees awarded under this subsection shall be based on rates prevailing in the community in which the action or proceeding arose for the kind and quality of services furnished. No bonus or multiplier may be used in calculating the fees awarded under this subsection.

(D) No award of attorneys' fees and related costs may be made in any action or proceeding under this subsection for services performed subsequent to the time of a written offer of settlement to a parent or guardian, if—

(i) the offer is made within the time prescribed by Rule 68 of the Federal Rules of Civil Procedure or, in the case of an administrative proceeding, at any time more than ten days before the proceeding begins;

(ii) the offer is not accepted within ten days; and

(iii) the court or administrative officer finds that the relief finally obtained by the parents or guardian is not more favorable to the parents or guardian than the offer of settlement.

(E) Notwithstanding the provisions of subparagraph (D), an award of attorneys' fees and related costs may be made to a parent or guardian who is the prevailing party and who was substantially justified in rejecting the settlement offer.

(F) Whenever the court finds that—

(i) the parent or guardian, during the course of the action or proceeding, unreasonably protracted the final resolution of the controversy;

(ii) the amount of the attorneys' fees otherwise authorized to be awarded unreasonably exceeds the hourly rate prevailing in the community for similar services by attorneys of reasonably comparable skill, experience, and reputation; or

(iii) the time spent and legal services furnished were excessive considering the nature of the action or proceeding,

the court shall reduce, accordingly, the amount of the attorneys' fees awarded under this subsection.

(G) The provisions of subparagraph (F) shall not apply in any action or proceeding if the court finds that the State or local educational agency unreasonably protracted the final resolution of the action or proceeding or there was a violation of section 615 of this Act.

(f) Nothing in this title shall be construed to restrict or limit the rights, procedures, and remedies available under the Constitution, title V of the Rehabilitation Act of 1973, or other Federal statutes protecting the rights of children and youth with disabilities, except that before the filing of a civil action under such laws seeking relief that is also available under this part, the procedures under subsections (b)(2) and (c) shall be exhausted to the same extent as would be required had the action been brought under this part.

(20 U.S.C. 1415) Enacted November 29, 1975, P.L. 94–142, sec. 5(a), 89 Stat. 788, 789; amended August 5, 1986, P.L. 99–372, secs. 2, 3, 100 Stat. 796, 797; amended November 7, 1988, P.L. 100–630, sec. 102(e), 102 Stat. 3294; amended October 30, 1990, P.L. 101–476, sec. 901(b)(71)–(75), 104 Stat. 1145.

WITHHOLDING AND JUDICIAL REVIEW

SEC. 616. (a) Whenever the Secretary, after reasonable notice and opportunity for hearing to the State educational agency involved (and to any local educational agency or intermediate educational unit affected by any failure described in clause (2)), finds—

(1) that there has been a failure to comply substantially with any provision of section 612 or section 613, or

(2) that in the administration of the State plan there is a failure to comply with any provision of this part or with any requirements set forth in the application of a local educational agency or intermediate educational unit approved by the State educational agency pursuant to the State plan, the Secretary—

(A) shall, after notifying the State educational agency, withhold any further payments to the State under this part, and

(B) may, after notifying the State educational agency, withhold further payments to the State under the Federal programs specified in section 613(a)(2) within the Secretary's jurisdiction, to the extent that funds under such programs are available for the provision of assistance for the education of children with disabilities.

If the Secretary withholds further payments under clause (A) or clause (B) the Secretary may determine that such withholding will be limited to programs or projects under the State plan, or portions thereof, affected by the failure, or that the State educational agency shall not make further payments under this part to specified local educational agencies or intermediate educational units affected by the failure. Until the Secretary is satisfied that there is no longer any failure to comply with the provisions of this part, as specified in clause (1) or clause (2), no further payments shall be made to the State under this part or under the Federal programs specified in section 613(a)(2) within the Secretary's jurisdiction to the extent that funds under such programs are available for the provision of assistance for the education of children with disabilities, or payments by the State educational agency under this part shall be limited to local educational agencies and intermediate educational units whose actions did not cause or were not involved in the failure, as the case may be. Any State educational agency, local educational agency, or intermediate educational unit in receipt of a notice pursuant to the first sentence of this subsection shall, by means of a public notice, take such measures as may be necessary to bring the pendency of an action pursuant to this subsection to the attention of the public within the jurisdiction of such agency or unit.

(b)(1) If any State is dissatisfied with the Secretary's final action with respect to its State plan submitted under section 613, such State may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings upon which the Secretary's action was based, as provided in section 2112 of title 28, United States Code.

(2) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(3) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(20 U.S.C. 1416) Enacted November 29, 1975 P.L. 94–142, sec. 5(a), 89 Stat. 789, 790; amended November 7, 1988, P.L. 100–630, sec. 102(f), 102 Stat. 3294; amended October 30, 1990, P.L. 101–476, sec. 901(b)(76), 104 Stat. 1145.

ADMINISTRATION

SEC. 617. (a)(1) In carrying out the Secretary's duties under this part, the Secretary shall—

(A) cooperate with, and furnish all technical assistance necessary, directly or by grant or contract, to the States in matters relating to the education of children with disabilities and the execution of the provisions of this part;

(B) provide such short-term training programs and institutes as are necessary;

(C) disseminate information, and otherwise promote the education of all handicapped children within the States; and

(D) assure that each State shall, within one year after the date of the enactment of the Education for All Handicapped Children Act of 1975 and every year thereafter, provide certification of the actual number of children with disabilities receiving special education and related services in such State.

(2) As soon as practicable after the date of the enactment of the Education for All Handicapped Children Act of 1975, the Secretary shall, by regulation, prescribe a uniform financial report to be utilized by State educational agencies in submitting plans under this part in order to assure equity among the States.

(b) In carrying out the provisions of this part, the Secretary shall issue, not later than January 1, 1977, amend, and revoke such rules and regulations as may be necessary. No other less formal method of implementing such provisions is authorized.

(c) The Secretary shall take appropriate action, in accordance with the provisions of section 438 of the General Education Provisions Act, to assure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained by the Secretary and by State and local educational agencies pursuant to the provisions of this part.

(d) The Secretary is authorized to hire qualified personnel necessary to conduct data collection and evaluation activities required by subsections (b), (c) and (d) of section 618 and to carry out the Secretary's duties under subsection (a)(1) of this subsection without regard to the provisions of title 5, United States Code, relating to appointments in the competitive service and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates except that no more than twenty such personnel shall be employed at any time.

(20 U.S.C. 1417) Enacted November 29, 1975, P.L. 94–142, sec. 5(a), 89 Stat. 791; amended November 7, 1988, P.L. 100–630, sec. 102(g), 102 Stat. 3295; amended October 30, 1990, P.L. 101–476, sec. 901(b), (77) (78), 104 Stat. 1145; amended October 7, 1991, P.L. 102–119, sec. 25(a)(7), 105 Stat. 606.

EVALUATION AND PROGRAM INFORMATION

SEC. 618. (a) The Secretary shall, directly or by grant, contract, or cooperative agreement, collect data and conduct studies, investigations, analyses, and evaluations—

(1) to assess progress in the implementation of this Act;

(2) to assess the impact and effectiveness of State and local efforts, and efforts by the Secretary of the Interior, to provide—

(A) free appropriate public education to children and youth with disabilities; and

(B) early intervention services to infants and toddlers with disabilities; and

(3) to provide—

(A) Congress with information relevant to policymaking; and

(B) State, local, and Federal agencies, including the Department of the Interior, with information relevant to program management, administration, delivery, and effectiveness with respect to such education and early intervention services.

(b)(1) In carrying out subsection (a), the Secretary, on at least an annual basis (except as provided in subparagraph (E)), shall obtain data concerning programs and projects assisted under this Act and under other Federal laws relating to infants, toddlers, children, and youth with disabilities, and such additional information, from State and local educational agencies, the Secretary of the Interior, and other appropriate sources, including designated lead agencies under part H (except that during fiscal year 1992 such entities may not under this subsection be required to provide data regarding traumatic brain injury or autism), including—

(A) the number of infants, toddlers, children, and youth with disabilities in each State receiving a free appropriate public education or early intervention services—

(i) in age groups 0–2 and 3–5, and

(ii) in age groups 6–11, 12–17, and 18–21, by disability category;

(B) the number of children and youth with disabilities in each State, by disability category, who—

(i) are participating in regular educational programs (consistent with the requirements of section[1] 612(5)(B) and 614(a)(1)(C)(iv));

(ii) are in separate classes, separate schools or facilities, or public or private residential facilities; or

(iii) have been otherwise removed from the regular education environment;

(C) the number of children and youth with disabilities exiting the educational system each year through program completion or otherwise, by disability category, for each year of age from age 14 through 21;

(D) the number and type of personnel that are employed in the provision of—

(i) special education and related services to children and youth with disabilities, by disability category served; and

(ii) early intervention services to infants and toddlers with disabilities; and

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[1] So in law. Probably should be "sections".

(E) at least every three years, using the data collection method the Secretary finds most appropriate, a description of the services expected to be needed, by disability category, for youth with disabilities in age groups 12–17 and 18–21 who have left the educational system.

(2) Beginning with fiscal year 1993, the Secretary shall obtain and report data from the States under section 613(a)(3)(A), including data addressing current and projected special education and related services needs, and data on the number of personnel who are employed on an emergency, provisional, or other basis, who do not hold appropriate State certification or licensure, and other data for the purpose of meeting the requirements of this subsection pertaining to special education and related services personnel.

(3) The Secretary shall provide, directly or by grant, contract, or cooperative agreement, technical assistance to State agencies providing the data described in paragraphs (1) and (2) to achieve accurate and comparable information.

(c)(1) The Secretary shall make grants to, or enter into contracts or cooperative agreements with, State or local educational agencies, institutions of higher education, public agencies, and private nonprofit organizations, and, when necessary because of the unique nature of the study, private-for-profit organizations, for the purpose of conducting studies, analyses, syntheses, and investigations for improving program management, administration, delivery, and effectiveness necessary to provide full educational opportunities and early interventions for all children with disabilities from birth through age 21. Such studies and investigations shall gather information necessary for program and system improvements including—

(A) developing effective, appropriate criteria and procedures to identify, evaluate, and serve infants, toddlers, children, and youth with disabilities from minority backgrounds for purposes of program eligibility, program planning, delivery of services, program placement, and parental involvement;

(B) planning and developing effective early intervention services, special education, and related services to meet the complex and changing needs of infants, toddlers, children, and youth with disabilities;

(C) developing and implementing a comprehensive system of personnel development needed to provide qualified personnel in sufficient number to deliver special education, related services, and early intervention services;

(D) developing the capacity to implement practices having the potential to integrate children with disabilities, to the maximum extent appropriate, with children who are not disabled;

(E) effectively allocating and using human and fiscal resources for providing early intervention, special education, and related services;

(F) strengthening programs and services to improve the progress of children and youth with disabilities while in special education, and to effect a successful transition when such children and youth leave special education;

(G) achieving interagency coordination to maximize resource utilization and continuity in services provided to infants, toddlers, children, and youth with disabilities;

(H) strengthening parent-school communication and coordination to improve the effectiveness of planning and delivery of interventions and instruction, thereby enhancing development and educational progress; and

(I) the identification of environmental, organizational, resource, and other conditions necessary for effective professional practice.

(2)(A) The studies and investigations authorized under this subsection may be conducted through surveys, interviews, case studies, program implementation studies, secondary data analyses and syntheses, and other appropriate methodologies.

(B) The studies and investigations conducted under this subsection shall address the information needs of State and local educational agencies for improving program management, administration, delivery, and effectiveness.

(3) The Secretary shall develop and implement a process for the on-going identification of national program information needed for improving the management, administration, delivery, and effectiveness of programs and services provided under this Act. The process shall identify implementation issues, desired improvements, and information needed by State and local agencies to achieve such improvements, and shall be conducted in cooperation with State educational agencies that can ensure broad-based statewide input from each cooperating State. The Secretary shall publish for public comment in the Federal Register every 3 years a program information plan describing such information needs. Such program information plan shall be used to determine the priorities for, and activities carried out under, this subsection to produce, organize, and increase utilization of program information. Such program information plan shall be included in the annual report submitted under section 618 every 3 years.

(4) In providing funds under this subsection, the Secretary shall require recipients to prepare their procedures, findings, and other relevant information in a form that will maximize their dissemination and use, especially through dissemination networks and mechanisms authorized by this Act, and in a form for inclusion in the annual report to Congress authorized under subsection (g).

(d)(1) The Secretary shall enter into cooperative agreements with State educational agencies and other State agencies to carry out studies to assess the impact and effectiveness of programs, policies, and procedures assisted under this Act.

(2) The agreements referred to in paragraph (1) shall—

(A) provide for the payment of not more than 60 percent of the total cost of studies conducted by a participating State agency to assess the impact and effectiveness of this Act; and

(B) be developed in consultation with the State Advisory Panel established under section 613(a)(12), local educational agencies, and others involved in, or concerned with, the education of children and youth with disabilities and the provision of early intervention services to infants and toddlers with disabilities.

(3) The Secretary shall provide technical assistance to participating State agencies in the implementation of the study design, analysis, and reporting procedures.

(e)(1) The Secretary shall by grant, contract, or cooperative agreement, provide for special studies to assess progress in the implementation of this Act, and to assess the impact and effectiveness of State and local efforts and efforts by the Secretary of the Interior to provide free appropriate public education to children and youth with disabilities, and early intervention services to infants and toddlers with disabilities. Reports from such studies shall include recommendations for improving programs and services to such individuals. The Secretary shall, beginning in fiscal year 1993 and for every third year thereafter, submit to the appropriate committees of each House of the Congress and publish in the Federal Register proposed priorities for review and comment.

(2) In selecting priorities for fiscal years 1991 through 1994, the Secretary may give first consideration to—

(A) completing a longitudinal study of a sample of students with disabilities, examining—

(i) the full range of disabling conditions;

(ii) the educational progress of students with disabilities while in special education; and

(iii) the occupational, educational, and independent living status of students with disabilities after graduating from secondary school or otherwise leaving special education.

(B) conducting pursuant to this subsection a nationally representative study focusing on the types, number, and intensity of related services provided to children with disabilities by disability category.

(C) conducting pursuant to this subsection a study that examines the degree of disparity among States with regard to the placement in various educational settings of children and youth with similar disabilities, especially those with mental retardation, and, to the extent that such disparity exists, the factors that lead such children and youth to be educated in significantly different educational settings.

(D) conducting pursuant to this subsection a study that examines the factors that have contributed to the decline in the number of children classified as mentally retarded since the implementation of this Act, and examines the current disparity among States in the percentage of children so classified.

(E) conducting pursuant to this subsection a study that examines the extent to which out-of-community residential programs are used for children and youth who are seriously emotionally disturbed, the factors that influence the selection of such placements, the degree to which such individuals transition back to education programs in their communities, and the factors that facilitate or impede such transition.

(F) conducting pursuant to this subsection a study that examines (i) the factors that influence the referral and placement decisions and types of placements, by disability category and English language proficiency, of minority children relative to other children, (ii) the extent to which these children are placed in regular education environments, (iii) the extent to which the parents of these children are involved in placement decisions and in the development and implementation of the individualized education program and the results of such participation, and (iv) the type of support provided to parents of these children that enable these parents to understand and participate in the educational process.

(f) The Secretary shall make grants to, or enter into contracts or cooperative agreements with, State or local educational agencies, institutions of higher education, other public agencies, and private nonprofit organizations to support activities that organize, synthesize, interpret, and integrate information obtained under subsections (c) and (e) with relevant knowledge obtained from other sources. Such activities shall include the selection and design of content, formats, and means for communicating such information effectively to specific or general audiences, in order to promote the use of such information in improving program administration and management, and service delivery and effectiveness.

(g)(1)(A) The Secretary is authorized to conduct activities, directly or by grant, contract, or cooperative agreement, to prepare an annual report on the progress being made toward the provision of—

(i) a free appropriate public education to all children and youth with disabilities; and

(ii) early intervention services for infants and toddlers with disabilities.

(B) Not later than 120 days after the close of each fiscal year, the Secretary shall transmit a copy of the report authorized under subparagraph (A) to the appropriate committees of each House of Congress. The annual report shall be published and disseminated in sufficient quantities to the education and disability communities and to other interested parties.

(2) The Secretary shall include in each annual report under paragraph (1)—

(A) a compilation and analysis of data gathered under subsection (b) and under part H; and

(B) a description of findings and determinations resulting from monitoring reviews of State implementation of this part.

(3) In the annual report under paragraph (1) for fiscal year 1991 (which is published in 1992) and for every third year thereafter, the Secretary shall include in the annual report—

(A) an index of all current projects funded under parts C through G; and

(B) data reported under sections 622 and 634.

(4) The Secretary shall include in each annual report under paragraph (1) the results of research and related activities conducted under part E that the Secretary determines are relevant to the effective implementation of this Act.

(5) The Secretary shall, in consultation with the National Council on Disability and the Bureau of Indian Affairs Advisory Committee for Exceptional Children, include a description of the status of early intervention services for infants and toddlers with disabilities from birth through age 2, and special education and related services to children with disabilities from 3 through 5 years

of age (including those receiving services through Head Start, developmental disabilities programs, crippled children's services, mental health/mental retardation agencies, and State child-development centers and private agencies under contract with local schools).

(h) There are authorized to be appropriated $12,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 through 1994 to carry out the purposes of this section and not more than 30 percent may be used to carry out the purposes of subsection (e) of this section.

(20 U.S.C. 1418) Enacted October 30, 1990, P.L. 101–476, sec. 203, 104 Stat. 1112–17.

PRESCHOOL GRANTS [1]

SEC. 619. (a)(1) [2] For fiscal years 1987 through 1989 (or fiscal year 1990 if the Secretary makes a grant under this paragraph for such fiscal year) the Secretary shall make a grant to any State which—

(A) has met the eligibility requirements of section 612,

(B) has a State plan approved under section 613, and

(C) provides special education and related services to children with disabilities aged three to five, inclusive.

(2)(A) For fiscal year 1987 the amount of a grant to a State under paragraph (1) may not exceed—

(i) $300 per child with a disability aged three to five, inclusive, who received special education and related services in such State as determined under section 611(a)(3), or

(ii) if the amount appropriated under subsection (e) exceeds the product of $300 and the total number of children with disabilities aged three to five, inclusive, who received special education and related services as determined under section 611(a)(3)—

(I) $300 per child with a disability aged three to five, inclusive, who received special education and related services in such State as determined under section 611(a)(3), plus

(II) an amount equal to the portion of the appropriation available after allocating funds to all States under subclause (I) (the excess appropriation) divided by the estimated increase, from the preceding fiscal year, in the number of children with disabilities aged three to five, inclusive, who will be receiving special education and related services in all States multiplied by the estimated increase in the number of such children in such State.

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[1] Section 110 of Public Law 100–630 (102 Stat. 3303) provides as follows: "The provisions of section 300.300(b)(3) of title 34, Code of Federal Regulations, shall not apply with respect to children aged 3 through 5, inclusive, in any State for any fiscal year for which the State receives a grant under section 619(a)(1) of the Education of the Handicapped Act."

Section 901(a) of Public Law 101–476 changed the short title of title VI of Public Law 91–230 from the "Education of the Handicapped Act" to the "Individuals with Disabilities Education Act". Such section made conforming amendments to certain Acts, and in the case of any other Act and any regulation, provided that any reference to the Education of the Handicapped Act shall be considered to be a reference to the Individuals with Disabilities Education Act.

[2] Section 109 of Public Law 100–630 (102 Stat. 3302) provides as follows:

"(a) SPECIAL RULE.—Notwithstanding section 412(b)(2) of the General Education Provisions Act, a State educational agency may use funds made available in fiscal year 1986 under section 619 of the Education of the Handicapped Act for expenditure in fiscal year 1987 in accordance with the statutory and regulatory provisions relating to such program that were in effect for fiscal year 1986 and the application submitted by such agency for such program for such fiscal year.

"(b) EFFECTIVE DATE.—This section shall be effective as of October 1, 1987."

(B) For fiscal year 1988, funds shall be distributed in accordance with clause (i) or (ii) of paragraph (2)(A), except that the amount specified therein shall be $400 instead of $300.

(C) For fiscal year 1989, funds shall be distributed in accordance with clause (i) or (ii) of paragraph (2)(A), except that the amount specified therein shall be $500 instead of $300.

(D) If the Secretary makes a grant under paragraph (1) for fiscal year 1990, the amount of a grant to a State under such paragraph may not exceed $1,000 per child with a disability aged three to five, inclusive, who received special education and related services in such State as determined under section 611(a)(3).

(E) If the actual number of additional children served in a fiscal year differs from the estimate made under subparagraph (A)(ii)(II), the Secretary shall adjust (upwards or downwards) a State's allotment in the subsequent fiscal year.

(F)(i) The amount of a grant under subparagraph (A), (B), or (C) to any State for a fiscal year may not exceed $3,800 per estimated child with a disability aged three to five, inclusive, who will be receiving or child with a disability, age three to five, inclusive, who is receiving special education and related services in such State.

(ii) If the amount appropriated under subsection (e) for any fiscal year exceeds the amount of grants which may be made to the States for such fiscal year, the excess amount appropriated shall remain available for obligation under this section for 2 succeeding fiscal years.

(3) To receive a grant under paragraph (1) a State shall make an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(b)(1) For fiscal year 1990 (or fiscal year 1991 if required by paragraph (2)) and fiscal years thereafter the Secretary shall make a grant to any State which—

(A) has met the eligibility requirements of section 612, and

(B) has a State plan approved under section 613 which includes policies and procedures that assure the availability under the State law and practice of such State of a free appropriate public education for all children with disabilities aged three to five, inclusive, and for any two-year-old children provided services by the State under subsection (c)(2)(B)(iii) or by a local educational agency or intermediate educational unit under subsection (f)(2).

(2) The Secretary may make a grant under paragraph (1) only for fiscal year 1990 and fiscal years thereafter, except that if—

(A) the aggregate amount that was appropriated under subsection (e) for fiscal years 1987, 1988, and 1989 was less than $656,000,000, or

(B) the amount appropriated for fiscal year 1990 under subsection (e) is less than $306,000,000, the Secretary may not make a grant under paragraph (1) until fiscal year 1991 and shall make a grant under subsection (a)(1) for fiscal year 1990.

(3) The amount of any grant to any State under paragraph (1) for any fiscal year may not exceed $1,500 for each child with a disability in such State aged three to five, inclusive.

(4) To receive a grant under paragraph (1) a State shall make an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(c)(1) For fiscal year 1987, a State which receives a grant under subsection (a)(1) shall—

(A) distribute at least 70 percent of such grant to local educational agencies and intermediate educational units in such State in accordance with paragraph (3), except that in applying such section only children with disabilities aged three to five, inclusive, shall be considered,

(B) use not more than 25 percent of such grant for the planning and development of a comprehensive delivery system for which a grant could have been made under section 623(b) in effect through fiscal year 1987 and for direct and support services for children with disabilities, and

(C) use not more than 5 percent of such grant for administrative expenses related to the grant.

(2) For fiscal years beginning after fiscal year 1987, a State which receives a grant under subsection (a)(1) or (b)(1) shall—

(A) distribute at least 75 percent of such grant to local educational agencies and intermediate educational units in such State in accordance with paragraph (3), except that in applying such section only children with disabilities aged three to five, inclusive, shall be considered,

(B) use not more than 20 percent of such grant—

(i) for planning and development of a comprehensive delivery system,

(ii) for direct and support services for children with disabilities, aged 3 to 5, inclusive, and

(iii) at the State's discretion, to provide a free appropriate public education, in accordance with this Act, to 2-year-old children with disabilities who will reach age 3 during the school year, whether or not such children are receiving, or have received, services under part H, and

(C) use not more than 5 percent of such grant for administrative expenses related to the grant.

(3) From the amount of funds available to local educational agencies and intermediate educational units in any State under this section, each local educational agency or intermediate educational unit shall be entitled to—

(A) an amount which bears the same ratio to the amount available under subsection (a)(2)(A)(i) or subsection (a)(2)(A)(ii)(I), as the case may be, as the number of children with disabilities aged three to five, inclusive, who received special education and related services as determined under section 611(a)(3) in such local educational agency or intermediate educational unit bears to the aggregate number of children with disabilities aged three to five, inclusive, who received special education and related services in all local educational agencies and intermediate educational units in the State entitled to funds under this section, and

(B) to the extent funds are available under subsection (a)(2)(A)(ii)(II), an amount which bears the same ratio to the amount of such funds as the estimated number of additional children with disabilities aged three to five, inclusive, who will be receiving special education and related services in such local educational agency or intermediate educational unit bears to the aggregate number of such children in all local educational agencies and intermediate educational units in the State entitled to funds under this section.

(d) If the sums appropriated under subsection (e) for any fiscal year for making payments to States under subsection (a)(1) or (b)(1) are not sufficient to pay in full the maximum amounts which all States may receive under such subsection for such fiscal year, the maximum amounts which all States may receive under such subsection for such fiscal year shall be ratably reduced by first ratably reducing amounts computed under the excess appropriation provision of subsection (a)(2)(A)(ii)(II). If additional funds become available for making such payments for any fiscal year during which the preceding sentence is applicable, the reduced maximum amounts shall be increased on the same basis as they were reduced.

(e) For grants under subsections (a)(1) and (b)(1) there are authorized to be appropriated such sums as may be necessary.

(f) Each local educational agency or intermediate educational unit receiving funds under this section—

(1) shall use such funds to provide special education and related services to children with disabilities aged 3 to 5, inclusive, and

(2) may, if consistent with State policy, use such funds to provide a free appropriate public education, in accordance with this part, to 2-year-old children with disabilities who will reach age 3 during the school year, whether or not such children are receiving, or have received, services under part H.

(g) Part H of this Act does not apply to any child with disabilities receiving a free appropriate public education, in accordance with this part, with funds received under this section.

(20 U.S.C. 1419) Enacted November 29, 1975, P.L. 94–142, sec. 5 (a), 89 Stat. 793; amended December 2, 1983, P.L. 98–199, sec. 9, 97 Stat. 1363; amended October 8, 1986, P.L. 99–457, sec. 201(a), 100 Stat. 1155; amended November 7, 1988, P.L. 100–630, sec. 102(i), 102 Stat. 3296; amended October 30, 1990, P.L. 101–476, sec. 901(b)(79)–(93), 104 Stat. 1145–46; amended October 7, 1991, P.L. 102–119, sec. 7, 105 Stat. 591.

PAYMENTS

SEC. 620. (a) The Secretary shall make payments to each State in amounts which the State educational agency of such State is eligible to receive under this part. Any State educational agency receiving payments under this subsection shall distribute payments to the local educational agencies and intermediate educational units of such State in amounts which such agencies and units are eligible to receive under this part after the State educational agency has approved applications of such agencies or units for payments in accordance with section 614(b).

(b) Payments under this part may be made in advance or by way of reimbursement and in such installments as the Secretary may determine necessary.

(20 U.S.C. 1420) Enacted November 29, 1975, P.L. 94–142, sec. 5(a), 89 Stat. 793, 794.

PART C—CENTERS AND SERVICES TO MEET SPECIAL NEEDS OF INDIVIDUALS WITH DISABILITIES

REGIONAL RESOURCE AND FEDERAL CENTERS

SEC. 621. (a) The Secretary may make grants to, or enter into contracts or cooperative agreements with, institutions of higher education, public agencies, private nonprofit organizations, State educational agencies, or combinations of such agencies or institutions (which combinations may include one or more local educational agencies) within particular regions of the United States, to pay all or part of the cost of the establishment and operation of regional resource centers that focus on special education and related services and early intervention services. Each regional resource center shall provide consultation, technical assistance, and training, as requested, to State educational agencies and through such State educational agencies to local educational agencies and to other appropriate public agencies providing special education and related services and early intervention services. The services provided by a regional resource center shall be consistent with the priority needs identified by the States served by the center. Each regional resource center established or operated under this section shall—

(1) assist in identifying and solving persistent problems in providing quality special education and related services for children and youth with disabilities and early intervention services to infants and toddlers with disabilities and their families,

(2) assist in developing, identifying, and replicating successful programs and practices which will improve special education and related services to children and youth with disabilities and their families and early intervention services to infants and toddlers with disabilities and their families,

(3) gather and disseminate information to all State educational agencies within the region and coordinate activities with other centers assisted under this subsection and other relevant programs and projects conducted under parts C through G and by the Department of Education,

(4) assist in the improvement of information dissemination to and training activities for professionals and parents of infants, toddlers, children, and youth with disabilities, and

(5) provide information to and training for agencies, institutions, and organizations, regarding techniques and approaches for submitting applications for grants, contracts, and cooperative agreements under this part and parts D through G.

(b) In determining whether to approve an application for a project under subsection (a), the Secretary shall utilize criteria for setting criteria that are consistent with the needs identified by States within the region served by such center, consistent with requirements established by the Secretary under subsection (f), and, to the extent appropriate, consistent with requirements under section 610, and shall consider the need for such a center in the region to be served by the applicant and the capability of the applicant to fulfill the responsibilities under subsection (a).

(c) Each regional resource center shall report a summary of materials produced or developed and the summaries reported shall be included in the annual report to Congress required under section 618.

(d) The Secretary may establish one coordinating technical assistance center focusing on national priorities established by the Secretary to assist the regional resource centers in the delivery of technical assistance, consistent with such national priorities. Such coordinating technical assistance center is authorized to—

(1) provide information to, and training for, agencies, institutions, and organizations, regarding techniques and approaches for submitting applications for grants, contracts, and cooperative agreements under this part and parts D through G, and shall make such information available to the regional resource centers on request;

(2) give priority to providing technical assistance concerning the education of children with disabilities from minority backgrounds;

(3) exchange information with, and, where appropriate, cooperate with, other centers addressing the needs of children with disabilities from minority backgrounds; and

(4) provide assistance to State educational agencies, through the regional resource centers, for the training of hearing officers.

(e) Before using funds made available in any fiscal year to carry out this section for purposes of subsection (d), not less than the amount made available in the previous fiscal year for regional resource centers under subsection (a) shall be made available for such centers and in no case shall more than $500,000 be made available for the center under subsection (d).

(f)(1) The Secretary shall develop guidelines and criteria for the operation of Regional and Federal Resource Centers. In developing such criteria and guidelines, the Secretary shall establish a panel representing the Office of Special Education Programs staff, State special education directors, representatives of disability advocates, and, when appropriate, consult with the regional resource center directors.

(2) Such guidelines and criteria shall include—

(A) a description of how the Federal and Regional Resource Centers Program will be administered by the Secretary;

(B) a description of the geographic region each Center is expected to serve;

(C) a description of the role of a Center in terms of expected leadership and dissemination efforts;

(D) a description of expected relationships with State agencies, research and demonstration centers, and with other entities deemed necessary;

(E) a description of how a Center will be evaluated; and

(F) other guidelines and criteria deemed necessary.

(3) The Secretary shall publish in the Federal Register by July 1, 1991, for review and comment, proposed and (then following such review and comment) final guidelines developed by the panel.

(20 U.S.C. 1421) Enacted April 13, 1970, P.L. 91–230, Title VI, sec. 621, 84 Stat. 181; amended December 2, 1983, P.L. 98–199, sec. 10, 97 Stat. 1363; amended October 8, 1986, P.L. 99–457, sec. 301, 100 Stat. 1159; amended November 7, 1988, P.L. 100–630, sec. 103(a) and (b), 102 Stat. 3296–3297; amended October 30, 1990, P.L. 101–476, secs. 301 and 901(b)(95)–(99), 104 Stat. 1117–18, 1146.

SERVICES FOR DEAF-BLIND CHILDREN AND YOUTH

SEC. 622. (a)(1) The Secretary is authorized to make grants to, or to enter into cooperative agreements or contracts with, public or nonprofit private agencies, institutions, or organizations to assist State educational agencies, local educational agencies, and designated lead agencies under part H to—

(A) assure deaf-blind infants, toddlers, children and youth provision of special education, early intervention, and related services as well as vocational and transitional services; and

(B) make available to deaf-blind youth (who are in the process of transitioning into adult services) programs, services, and supports to facilitate such transition, including assistance related to independent living and competitive employment.

(2) For purposes of this section, the term "deaf-blind", with respect to children and youth, means having auditory and visual impairments, the combination of which creates such severe communication and other developmental and learning needs that they cannot be appropriately educated in special education programs solely for children and youth with hearing impairments, visual impairments, or severe disabilities, without supplementary assistance to address their educational needs due to these dual, concurrent disabilities.

(3)(A) [1] A grant, cooperative agreement, or contract may be made under paragraph (1)(A) only for programs providing—

(i) technical assistance to agencies, institutions, or organizations providing educational or early intervention services to deaf-blind infants, toddlers, children, or youth;

(ii) preservice or inservice training to paraprofessionals, professionals, or related services personnel preparing to serve, or serving, deaf-blind infants, toddlers, children, or youth;

(iii) replication of successful innovative approaches to providing educational, early intervention, or related services to deaf-blind infants, toddlers, children, and youth;

(iv) pilot projects that are designed to—

(I) expand local educational agency capabilities by providing services to deaf-blind children and youth that supplement services already provided to children and youth through State and local resources; and

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[1] So in law. See section 302(a)(3) of Public Law 101–476 (104 Stat. 1119). Indentation is incorrect.

(II) encourage eventual assumption of funding responsibility by State and local authorities;

(v) the development, improvement, or demonstration of new or existing methods, approaches, or techniques that contribute to the adjustment and education of deaf-blind infants, toddlers, children, and youth; or

(vi) facilitation of parental involvement in the education of their deaf-blind infants, toddlers, children, and youth.

(B) The programs described in subparagraph (A) may include—

(i) the diagnosis and educational evaluation of infants, toddlers, children, and youth who are likely to be diagnosed as deaf-blind;

(ii) programs of adjustment, education, and orientation for deaf-blind infants, toddlers, children, and youth; and

(iii) consultative, counseling, and training services for the families of deaf-blind infants, toddlers, children, and youth.

(4) A grant, cooperative agreement, or contract pursuant to paragraph (1)(B) may be made only for programs providing (A) technical assistance to agencies, institutions, and organizations that are preparing deaf-blind adolescents for adult placements, or that are preparing to receive deaf-blind young adults into adult living and work environments, or that serve, or propose to serve, deaf-blind individuals; (B) training or inservice training to paraprofessionals or professionals serving, or preparing to serve, such individuals; and (C) assistance in the development or replication of successful innovative approaches to providing rehabilitative, supervised, semisupervised, or independent living programs.

(5) In carrying out this subsection, the Secretary is authorized to enter into a number of grants or cooperative agreements to establish and support single and multi-State centers for the provision of technical assistance and pilot supplementary services, for the purposes of program development and expansion, for children and youth with deaf-blindness and their families.

(b) The Secretary is also authorized to enter into a limited number of cooperative agreements or contracts to establish and support regional programs for the provision of technical assistance in the education of deaf-blind children and youth.

(c)(1) Programs supported under this section shall report annually to the Secretary on (A) the numbers of deaf-blind children and youth served by age, severity, sex, and nature of deaf-blindness; (B) the number of paraprofessionals, professionals, and family members directly served by each activity; (C) the types of services provided and the setting in which the services are provided; and (D) student outcomes, where appropriate.

(2) The Secretary shall examine the number of deaf-blind children and youth (A) reported under subparagraph (c)(1)(A) and by the States; (B) served by the programs under part B of this Act and subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965; and (C) the Deaf-Blind Registry

of each State. The Secretary shall revise the count of deaf-blind children and youth to reflect the most accurate count.

(3) The Secretary shall summarize these data for submission in the annual report required under section 618.

(d) The Secretary shall make a grant, or enter into a contract or cooperative agreement, for a national clearinghouse for children and youth with deaf-blindness—

(1) to identify, coordinate, and disseminate information on deaf-blindness, emphasizing information concerning effective practices in working with deaf-blind infants, toddlers, children, and youth;

(2) to interact with educators, professional groups, and parents to identify areas for programming, materials development, training, and expansion of specific services;

(3) to maintain a computerized data base on local, regional, and national resources; and

(4) to respond to information requests from professionals, parents, and members of the community.

(e) In carrying out this section, the Secretary shall take into consideration the availability and quality of existing services for deaf-blind infants, toddlers, children, and youth in the country, and, to the extent practicable, ensure that all parts of the country have an opportunity to receive assistance under this section.

(f) The Secretary may make grants to, or enter into contracts or cooperative agreements with organizations or public or nonprofit private agencies, as determined by the Secretary to be appropriate, to address the needs of children and youth with deaf-blindness, for—

(1) research to identify and meet the full range of special needs of such children and youth; and

(2) the development and demonstration of new, or improvements in existing methods, approaches, or techniques that would contribute to the adjustment and education of children and youth with deaf-blindness.

(20 U.S.C. 1422) Enacted April 13, 1970, P.L. 91–230, Title VI, sec. 622, 84 Stat. 182; amended December 2, 1983, P.L. 98–199, sec. 10, 97 Stat. 1364; amended October 8, 1986, P.L. 99–457, sec. 302, 100 Stat. 1160; amended November 7, 1988, P.L. 100–630, sec. 103(c), 102 Stat. 3297; amended October 30, 1990, P.L. 101–476, sec. 302, 104 Stat. 1118–21; amended October 7, 1991, P.L. 102–119, sec. 25(a)(8), 105 Stat. 606.

EARLY EDUCATION FOR CHILDREN WITH DISABILITIES

SEC. 623. (a)(1) The Secretary may arrange by contract, grant, or cooperative agreement with appropriate public agencies and private nonprofit organizations, for the development and operation of experimental, demonstration, and outreach preschool and early intervention programs for children with disabilities, including individuals who are at risk of having substantial developmental delays if early intervention services are not provided, which the Secretary determines show promise of promoting a comprehensive and strengthened approach to the special needs of these children. Such programs shall include activities and services designed to—

(A) facilitate the intellectual, emotional, physical, mental, social, speech or other communication mode, language development, and self-help skills of such children,

(B) provide family education and include a parent or their representative of such child, as well as encourage the participation of the parents of such children in the development and operation of any such program,

(C) acquaint the community to be served by any such program with the special needs and potentialities of such children,

(D) offer training about exemplary models and practices, including interdisciplinary models and practices, to State and local personnel who provide services to children with disabilities from birth through age 8 and to the parents of such children,

(E) support the adoption of exemplary models and practices in States and local communities, including the involvement of adult role models with disabilities at all levels of the program,

(F) facilitate and improve the early identification of infants and toddlers with disabilities or those infants and toddlers at risk of having developmental disabilities,

(G) facilitate the transition of infants with disabilities or infants at risk of having developmental delays, from medical care to early intervention services, and the transition from early intervention services to preschool special education or regular education services (especially where the lead agency for early intervention programs under part H is not the State educational agency),

(H) promote the use of assistive technology devices and assistive technology services, where appropriate, to enhance the development of infants and toddlers with disabilities,

(I) facilitate and improve outreach to low-income, minority, rural, and other underserved populations eligible for assistance under parts B and H,

(J) support statewide projects in conjunction with a State's application under part H and a State's plan under part B, to change the delivery of early intervention services to infants and toddlers with disabilities, and to change the delivery of special education and related services to preschool children with disabilities, from segregated to integrated environments, and

(K) increase the understanding of, and address, the early intervention and preschool needs of children exposed prenatally to maternal substance abuse.

(2) Programs authorized by paragraph (1) shall be coordinated with similar programs in the schools operated or supported by State or local educational agencies of the community to be served and with similar programs operated by other public agencies in such community.

(3) As much as is feasible, programs assisted under paragraph (1) shall be geographically dispersed throughout the Nation in urban as well as rural areas.

(4)(A) Except as provided in subparagraph (B), no arrangement under paragraph (1) shall provide for the payment of more than 90 percent of the total annual costs of development, operation, and evaluation of any program. Non-Federal contributions may be in cash or in kind, fairly evaluated, including plant, equipment, and services.

(B) The Secretary may waive the requirement of subparagraph (A) in the case of an arrangement entered into under paragraph (1) with governing bodies of Indian tribes located on Federal or State reservations and with consortia of such bodies.

(b) The Secretary shall fund up to 5 grants to States for 3 years for the purpose of establishing an inter-agency, multi-disciplinary, and coordinated statewide system for the identification, tracking, and referral to appropriate services for all categories of children who are biologically and/or environmentally at-risk of having developmental delays. To the extent feasible, such grants shall be geographically dispersed throughout the Nation in urban and rural areas. Each grantee must—

(1) create a data system within the first year to document the numbers and types of at-risk children in the State and that develops linkages with all appropriate existing child data and tracking systems that assist in providing information;

(2) coordinate activities with the child find component required under parts B and H of this Act;

(3) demonstrate the involvement of the lead agency and the State interagency coordinating council under part H as well as the State educational agency under part B;

(4) coordinate with other relevant prevention activities across appropriate service agencies, organizations, councils, and commissions;

(5) define an appropriate service delivery system based on children with various types of at-risk factors;

(6) document the need for additional services as well as barriers; and

(7) disseminate findings and information in the manner prescribed in section 610(g).

(c) The Secretary shall arrange by contract, grant, or cooperative agreement with appropriate public agencies and private nonprofit organizations for the establishment of a technical assistance development system to assist entities operating experimental, demonstration, and outreach programs and to assist State agencies to expand and improve services provided to children with disabilities. This technical assistance development system shall provide assistance to parents of and advocates for infants, toddlers, and children with disabilities, as well as direct service and administrative personnel involved with such children. Information from the system should be aggressively disseminated through established information networks and other mechanisms to ensure both an impact and benefits at the community level. The Secretary shall ensure that the technical assistance provided under this subsection includes assistance to part H State agencies on procedures for use by primary referral sources in referring a child to the appropriate agency within the system for evaluation, assessment, or service.

(d) The Secretary shall arrange by contract, grant, or cooperative agreement with appropriate public agencies and private nonprofit organizations for the establishment of early childhood research institutes to carry on sustained research to generate and disseminate new information on preschool and early intervention for children with disabilities and their families. Such institutes shall disseminate this information in the manner prescribed in section 610(g).

(e) The Secretary may make grants to, or enter into contracts or cooperative agreements under this section with, such organizations or institutions, as are determined by the Secretary to be appropriate, for research to identify and meet the full range of special needs of children with disabilities and for training of personnel for programs specifically designed for children with disabilities, including programs to integrate children with disabilities into regular preschool programs.

(f) At least one year before the termination of a grant, contract, or cooperative agreement made or entered into under subsections (c) and (d), the Secretary shall publish in the Federal Register a notice of intent to accept applications for such a grant, contract, or cooperative agreement contingent on the appropriation of sufficient funds by Congress.

(g) For purposes of this section the term "children with disabilities" includes children from birth through eight years of age, including infants and toddlers with disabilities.

(h) The Secretary may make grants to, or enter into contracts or cooperative agreements with, institutions of higher education and nonprofit private organizations to synthesize the knowledge developed under this section and organize, integrate, and present such knowledge so it can be incorporated and imparted to parents, professionals, and others providing or preparing to provide preschool or early intervention services and to persons designing preschool or early intervention programs.

(20 U.S.C. 1423) Enacted April 13, 1970, P.L. 91-230, Title VI, sec. 623, 84 Stat. 183; amended December 2, 1983, P.L. 98-199, sec. 10, 97 Stat. 1365; amended October 8, 1986, P.L. 99-457, sec. 303, 100 Stat. 1161; amended November 7, 1988, P.L. 100-630, sec. 103(d), 102 Stat. 3297; amended October 30, 1990, P.L. 101-476, sec. 303 and 901(b)(100)-(106), 104 Stat. 1121-22, 1146-47; amended October 7, 1991, P.L. 102-119, secs. 8 and 25(a)(9), 105 Stat. 592 and 606.

PROGRAMS FOR CHILDREN WITH SEVERE DISABILITIES

SEC. 624. (a) The Secretary may make grants to, or enter into contracts or cooperative agreements with, appropriate public agencies and nonprofit organizations to address the special education, related services, early intervention, and integration needs of infants, toddlers, children, and youth with severe disabilities through—

(1) research to identify and meet the full range of special education, related services, and early intervention needs of such children and youth with disabilities, including their need for transportation to and from school,

(2) the development or demonstration of new, or improvements in existing, methods, approaches, or techniques which would contribute to the adjustment and education of such children and youth with disabilities,

(3) training of special and regular education, related services, and early intervention personnel for programs specifically

designed for such infants, toddlers, children and youth, including training of regular teachers, instructors, and administrators in strategies (the goal of which is to serve infants, toddlers, children, and youth with disabilities) that include integrated settings for educating such children along side their nondisabled peers,

(4) dissemination of materials and information about practices found effective in working with such children and youth by utilizing existing networks as prescribed in section 610(g)[1] and

(5) statewide projects, in conjunction with the State's plan under part B, to improve the quality of special education and related services for children and youth with severe disabilities, and to change the delivery of those services from segregated to integrated environments.

(b) The Secretary is authorized to make grants to, or enter into contracts or cooperative agreements with, public or private nonprofit private agencies, institutions, or organizations for the development and operation of extended school year demonstration programs for infants, toddlers, children, and youth with severe disabilities.

(c) In making grants and entering into contracts and cooperative agreements under subsection (a), the Secretary shall ensure that the activities funded under such grants, contracts, or cooperative agreements will be coordinated with similar activities funded from grants and contracts under other sections of this Act.

(d) To the extent feasible, programs authorized by subsection (a) shall be geographically dispersed throughout the Nation in urban and rural areas.

(e) In awarding such grants and contracts under this section, the Secretary shall include a priority on programs that increase the likelihood that these children and youth will be educated with their nondisabled peers.

(20 U.S.C. 1424) Enacted April 13, 1970, P.L. 91–230, Title VI, sec. 624, 84 Stat. 183; amended December 2, 1983, P.L. 98–199, sec. 10, 97 Stat. 1366; amended October 8, 1986, P.L. 99–457, sec. 304, 100 Stat. 1162; amended November 7, 1988, P.L. 100–630, sec. 103(e), 102 Stat. 3297; amended October 30, 1990, P.L. 101–476, secs. 304 and 901(b)(108)–(110), 104 Stat. 1121–22, 1147; amended October 7, 1991, P.L. 102–119, sec. 25(a)(10), 105 Stat. 606.

POSTSECONDARY EDUCATION

SEC. 625. (a)(1) The Secretary may make grants to, or enter into contracts with, State educational agencies, institutions of higher education, junior and community colleges, vocational and technical institutions, and other appropriate nonprofit educational agencies for the development, operation, and dissemination of specially designed model programs of postsecondary, vocational, technical, continuing, or adult education for individuals with disabilities. Such model programs may include joint projects that coordinate with special education and transition services.

(2) In making grants or contracts on a competitive basis under paragraph (1), the Secretary shall give priority consideration to 4

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[1] So in law. Probably should be followed by a comma.

regional centers for the deaf and to model programs for individuals with disabling conditions other than deafness—

(A) for developing and adapting programs of postsecondary, vocational, technical, continuing, or adult education to meet the special needs of individuals with disabilities, and[1]

(B) for programs that coordinate, facilitate, and encourage education of individuals with disabilities with their nondisabled peers; and[2]

(C) for outreach activities that include the provision of technical assistance to strengthen efforts in the development, operation, and design of model programs that are adapted to the special needs of individuals with disabilities.

(3) Persons operating programs for persons with disabilities under a grant or contract under paragraph (1) must coordinate their efforts with and disseminate information about their activities to the clearinghouse on postsecondary programs established under section 633(b).

(4) At least one year before the termination of a grant or contract with any of the 4 regional centers for the deaf, the Secretary shall publish in the Federal Register a notice of intent to accept applications for such grant or contract, contingent on the appropriation of sufficient funds by Congress.

(5) To the extent feasible, programs authorized by paragraph (1) shall be geographically dispersed throughout the Nation in urban and rural areas.

(6) Of the sums made available for programs under paragraph (1), not less than $4,000,000 shall first be available for the 4 regional centers for the deaf. The Secretary shall continue to provide assistance through September 30, 1994, to the current grantees operating the four regional centers for the deaf under subsection (a) of this section. The Secretary shall continue to provide such assistance through September 30, 1995, unless the authorization of appropriations for parts C–G of the Act is extended by September 30, 1994.

(b) For purposes of subsection (a), the term "individuals with disabilities" means individuals—

(1) with mental retardation, hearing impairments including deafness, speech or language impairments, visual impairments including blindness, serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and

(2) who, by reason thereof, need special education and related services.

(20 U.S.C. 1424a) Enacted August 21, 1974, P.L. 93–380, sec. 616, 88 Stat. 584; amended December 2, 1983, P.L. 98–199, sec. 10, 97 Stat. 1367; amended October 8, 1986, P.L. 99–457, sec. 305, 100 Stat. 1162; amended November 7, 1988, P.L. 100–630, sec. 103(f), 102 Stat. 3297–3298; amended October 30, 1990, P.L. 101–476, secs. 305 and 901(b)(111)–(116), 104 Stat. 1123, 1147; amended October 16, 1992, P.L. 102–421, sec. 201(a), 106 Stat. 2164.

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[1] So in law. See section 305 of Public Law 99–457 (100 Stat. 1162). The word "and" probably should not appear. Section 305(a)(2)(A) of Public Law 101–476 (104 Stat. 1123) provided that subparagraph (A) is amended by striking out "and" after the semicolon at the end of the subparagraph. The amendment cannot be executed because a comma appears at the end, not a semicolon.

[2] So in law. The semicolon probably should be a comma.

SECONDARY EDUCATION AND TRANSITIONAL SERVICES FOR YOUTH WITH DISABILITIES

SEC. 626. (a) The Secretary may make grants to, or enter into contracts with, institutions of higher education, State educational agencies, local educational agencies, or other appropriate public and private nonprofit institutions or agencies (including the State job training coordinating councils and service delivery area administrative entities established under the Job Training Partnership Act) to—

(1) strengthen and coordinate special education and related services for youth with disabilities currently in school or who recently left school to assist them in the transition to postsecondary education, vocational training, competitive employment (including supported employment), continuing education, independent and community living, or adult services,

(2) stimulate the improvement and development of programs for secondary special education, and

(3) stimulate the improvement of the vocational and life skills of students with disabilities to enable them to be better prepared for transition to adult life and services.

To the extent feasible, such programs shall be geographically dispersed throughout the Nation in urban and rural areas.

(b) Projects assisted under subsection (a) may include—

(1) developing strategies and techniques for transition to independent living, vocational training, vocational rehabilitation, postsecondary education, and competitive employment (including supported employment) for youth with disabilities,

(2) establishing demonstration models for services, programs, and individualized education programs, which emphasize vocational training, independent living, transitional services, and placement for youth with disabilities,

(3) conducting demographic studies which provide information on the numbers, age levels, types of disabling conditions, and services required for youth with disabilities in need of transitional programs,

(4) specially designed vocational programs to increase the potential for competitive employment for youth with disabilities,

(5) research and development projects for exemplary service delivery models and the replication and dissemination of successful models,

(6) initiating cooperative models among educational agencies and adult service agencies, including vocational rehabilitation, mental health, mental retardation, and public employment, and employers, which facilitate the planning and developing of transitional services for youth with disabilities to postsecondary education, vocational training, employment, continuing education, and adult services,

(7) developing appropriate procedures for evaluating vocational training, placement, and transitional services for youth with disabilities,

(8) conducting studies which provide information on the numbers, age levels, types of disabling conditions and reasons

why some youth with disabilities remain to complete school programs while others drop out,

(9) developing curriculum and instructional techniques in special education and related services that will improve the acquisition of skills by students with disabilities necessary for transition to adult life and services,

(10) specially designed or adapted physical education and therapeutic recreation programs to facilitate the full participation of youths with disabilities in community programs, and

(11) developing and disseminating exemplary programs and practices that meet the unique needs of students who utilize assistive technology devices and assistive technology services as such students make the transition to postsecondary education, vocational training, competitive employment (including supported employment), and continuing education or adult services.

(c) For purposes of paragraphs (1) and (2) of subsection (b), if an applicant is not an educational agency, such applicant shall coordinate its activities with the State educational agency.

(d) Applications for assistance under subsection (a) other than for the purpose of conducting studies or evaluations shall—

(1) describe the procedures to be used for disseminating relevant findings and data to regional resource centers, clearinghouses, and other interested persons, agencies, or organizations,

(2) describe the procedures that will be used for coordinating services among agencies for which youth with disabilities are or will be eligible, and

(3) provide for the direct participation of students with disabilities and the parents of students with disabilities in the planning, development, and implementation of such projects.

(e)(1) The Secretary shall make one-time, 5-year grants, on a competitive basis, to States in which the State vocational rehabilitation agency and State educational agency submit a joint application to develop, implement, and improve systems to provide transition services for youth with disabilities from age 14 through the age they exit school.

(2) In the case of a State whose vocational rehabilitation agency does not participate regarding a joint application described in paragraph (1), the Secretary may make a grant under such paragraph to the State if a joint application for the grant is submitted by the State educational agency and one other State agency that provides transition services to individuals who are leaving programs under this Act.

(3) States that receive grants shall use grant funds to:

(A) Increase the availability, access, and quality of transition assistance through the development and improvement of policies, procedures, systems, and other mechanisms for youth with disabilities and their families as such youth prepare for and enter adult life.

(B) Improve the ability of professionals, parents, and advocates to work with such youth in ways that promote the understanding of and the capability to successfully make the transition from "student" to "adult".

(C) Improve working relationships among education personnel, bothwithin LEAs and in postsecondary training programs, relevant State agencies, the private sector (especially employers), rehabilitation personnel, local and State employment agencies, local Private Industry Councils (PICS) authorized by the Job Training Partnership Act (JTPA), and families of students with disabilities and their advocates to identify and achieve consensus on the general nature and specific application of transition services to meet the needs of youth with disabilities.

(D) Create an incentive for accessing and using the expertise and resources of programs, projects, and activities related to transition funded through this section and with other sources.

(4)(A) In order to receive funding under this subsection, a State vocational rehabilitation agency and State educational agency shall describe in their application how they will use the first year, if necessary, to plan how to implement transition services, the second through fourth years to develop and implement transition services, and the fifth year to evaluate transition services. The application shall describe how the grant funds will be used during the planning period and phased out during the evaluation period to ensure the continuation of transition services. Such applications shall also include—

(i) a description of the current availability, access, and quality of transition services for eligible youth and a description of how, over 5 years, the State will improve and expand the availability, access, and quality of transition services for youth with disabilities and their families as such youth prepare for and enter adult life;

(ii) a description of how the State will improve and increase the ability of professionals, parents, and advocates to work with such youth in ways that promote the understanding of and the capability to successfully make the transition from "student" to "adult";

(iii) a description of how the State will improve and increase working relationships among education personnel, both within LEAs and in postsecondary training programs, relevant State agencies, the private sector (especially employers), rehabilitation personnel, local and State employment agencies, local Private Industry Councils (PICS) authorized by the JTPA, and families of students with disabilities and their advocates to identify and achieve consensus on the general nature and specific application of transition services to meet the needs of youth with disabilities; and

(iv) a description of how the State will use grant funds as an incentive for accessing and using the expertise and resources of programs, projects, and activities related to transition funded through this section and with other sources.

(B) The Secretary shall give preference to those applications that, in addition to clearly addressing the requirements under subparagraph (A), describe how the State will—

(i) target resources to school settings, such as providing access to rehabilitation counselors for students with disabilities who are in school settings;

(ii) target a substantial amount of grant funds, received under this subsection, to case management, program evaluation and documentation of, and dissemination of information about, transition services;

(iii) provide incentives for interagency and private sector resource pooling and otherwise investing in transition services, especially in the form of cooperative agreements, particularly with PICS authorized by the JTPA and local branches of State employment agencies;

(iv) provide for early, ongoing information and training for those involved with or who could be involved with transition services—professionals, parents, youth with disabilities, including self-advocacy training for such youth, and advocates for such youth as well as PICS authorized by the JTPA and local branches of State employment agencies;

(v) provide for the early and direct involvement of all relevant parties, including PICS authorized by the JTPA and local branches of State employment agencies, in operating and planning improvements in transition services, and the early and direct involvement of all relevant parties in planning and implementing transition services for individual youth;

(vi) provide access to training for eligible youth that matches labor market needs in their communities;

(vii) integrate transition services with relevant opportunities in communities, including those sponsored by PICS authorized by the JTPA and local employment agencies;

(viii) use a transition services evaluation plan that is outcome oriented and that focuses on individual youth-focused benefits; and

(ix) ensure that, when appropriate and no later than age 22, eligible youth who participate in transition services under this program would be served as appropriate in the State section 110 and/or title VI, part C program authorized under the Rehabilitation Act of 1973.

(f)(1) The Secretary is authorized to make grants to, or to enter into contracts or cooperative agreements with, such organizations or institutions as are determined by the Secretary to be appropriate for the development or demonstration of new or improvements in existing methods, approaches, or techniques which will contribute to the adjustment and education of children and youth with disabilities and the dissemination of materials and information concerning practices found effective in working with such children and youth. Such organizations and institutions shall disseminate such materials and information as prescribed under section 610(g).

(2) The Secretary shall fund one or more demonstration models designed to establish appropriate methods of providing, or continuing to provide, assistive technology devices and services to secondary school students as they make the transition to vocational rehabilitation, employment, postsecondary education, or adult services. Such demonstration models shall include, as appropriate—

(A) cooperative agreements with the Rehabilitation Services Administration and/or State vocational rehabilitation agencies that ensure continuity of funding for assistive technology devices and services to such students; and

(B) methods for dissemination of exemplary practices that can be adapted or adopted by transitional programs for secondary school students with disabilities.

(3)(A) The Secretary shall award one, five-year cooperative agreement through a separate competition to an institution of higher education, or nonprofit public or private organization. The purpose of this agreement will be to evaluate and document the approaches and outcomes of the projects funded under subsection (e). The results of this agreement shall be disseminated through the appropriate clearinghouses, networks, and through direct communication with Federal, State, and local agencies.

(B) The evaluation carried out pursuant to subparagraph (A) of transition services under subsection (e) shall include an evaluation of—

(i) the outcomes of the transition services provided under such subsection, including the effect of the services regarding postsecondary education, job training, employment, and other appropriate matters;

(ii) the impact of including in the individualized education program a statement of needed transition services (as required under section 602(a)(20)(D));

(iii) the extent to which, in the provision of the transition services, agencies are cooperating effectively, including evaluation of the extent of coordination of the staff of the agencies, of procedures regarding confidentiality, assessment of needs, and referrals, and coordination regarding data bases and training;

(iv) the extent to which obstacles exist regarding cooperation and coordination among agencies in the provision of the transition services, and the extent to which Federal law creates disincentives to such cooperation and coordination; and

(v) the extent to which the transition services have been provided in a cost-effective manner.

(C) The evaluation carried out pursuant to subparagraph (A) shall include recommendations on the manner in which the program under subsection (e) can be improved.

(D) In the annual report required under section 618(g), the Secretary shall include a report of the activities and results associated with the agreement under subparagraph (A).

(g) The Secretary, as appropriate, shall coordinate programs described under subsection (a) with projects developed under section 311 of the Rehabilitation Act of 1973, the Job Training Partnership Act (JTPA), and the Carl D. Perkins Vocational and Applied Technology Education Act.

(20 U.S.C. 1425) Enacted April 13, 1970, P.L. 91–230, Title VI, sec. 625, 84 Stat 183; renumbered August 21, 1974, P.L. 93–380, sec. 616, 88 Stat. 584; amended December 2, 1983, P.L. 98–199, sec. 10, 97 Stat. 1367; amended October 8, 1986, P.L. 99–457, sec. 306, 100 Stat. 1163; amended November 7, 1988, P.L. 100–630, sec. 103(g), 102 Stat. 3298; amended October 30, 1990, P.L. 101–476, secs. 306 and 901(b)(120)–(127), 104 Stat. 1124–27, 1147–48; amended October 7, 1991, P.L. 102–119, sec. 25(a)(11), 105 Stat. 606.

PROGRAMS FOR CHILDREN AND YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE

SEC. 627. (a) The Secretary is authorized to make grants to, or enter into contracts or cooperative agreements with, institutions of higher education, State and local educational agencies, and other appropriate public and private nonprofit institutions or agencies to establish projects for the purpose of improving special education and related services to children and youth with serious emotional disturbance. Such projects may include—

(1) studies regarding the present state of special education and related services to such children and youth and their families, including information and data to enable assessments of the status of such services over time;

(2) developing methodologies and curricula designed to improve special education and related services for these children and youth;

(3) developing and demonstrating strategies and approaches to reduce the use of out-of-community residential programs and the increased use of school district-based programs (which may include day treatment programs, after-school programs, and summer programs);

(4) developing the knowledge, skills, and strategies for effective collaboration among special education, regular education, related services, and other professionals and agencies; or

(5) developing and demonstrating innovative approaches to assist and to prevent children with emotional and behavioral problems from developing serious emotional disturbances that require the provision of special education and related services.

(b)(1) The Secretary is authorized to make grants, on a competitive basis, to local educational agencies in collaboration with mental health entities to provide services for children and youth with serious emotional disturbance. Such demonstration projects shall—

(A) increase the availability, access, and quality of community services for such children and youth and their families;

(B) improve working relationships among education, school, and community mental health and other relevant personnel, families of such children and youth, and their advocates;

(C) target resources to school settings, such as providing access to school and/or community mental health professionals and other community resources for students with serious emotional disturbance who are in community school settings; and

(D) take into account the needs of minority children and youth in all phases of project activity.

(2) Funds received under this subsection may also be used to facilitate interagency and private sector resource pooling to improve services for such children and youth and to provide information and training for those involved with, or who could be involved with, such children and youth.

(c) Each project assisted under this section shall—

(1) apply existing research outcomes from multi-disciplinary fields;

(2) use a grant evaluation plan that is outcome-oriented and that focuses on the benefits to individual children and youth;

(3) report on the effectiveness of such project; and

(4) disseminate the findings of such project, where appropriate, in accordance with section 610(g).

(20 U.S.C. 1426) Enacted October 30, 1990, P.L. 101–476, sec. 307, 104 Stat. 1127–28.

AUTHORIZATION OF APPROPRIATIONS

SEC. 628. (a) There are authorized to be appropriated to carry out section 621 $8,525,000 for fiscal year 1991, $9,300,000 for fiscal year 1992, $10,140,000 for fiscal year 1993, and $11,052,000 for fiscal year 1994.

(b) There are authorized to be appropriated to carry out section 622 $21,900,000 for fiscal year 1991, $24,100,000 for fiscal year 1992, $26,500,000 for fiscal year 1993, and $29,200,000 for fiscal year 1994.

(c) There are authorized to be appropriated to carry out section 623 $31,400,000 for fiscal year 1991, $34,235,000 for fiscal year 1992, $37,325,000 for fiscal year 1993, and $40,705,000 for fiscal year 1994.

(d) There are authorized to be appropriated to carry out section 624 $9,500,000 for fiscal year 1991, $10,500,000 for fiscal year 1992, $11,600,000 for fiscal year 1993, and $12,700,000 for fiscal year 1994.

(e) There are authorized to be appropriated to carry out section 625 $9,470,000 for fiscal year 1991, $10,230,000 for fiscal year 1992, $11,050,000 for fiscal year 1993, and $11,930,000 for fiscal year 1994.

(f) There are authorized to be appropriated to carry out section 626 (except subsection (e)) $9,800,000 for fiscal year 1991, $10,800,000 for fiscal year 1992, $11,900,000 for fiscal year 1993, and $13,050,000 for fiscal year 1994.

(g) There are authorized to be appropriated to carry out section 626(e) $27,500,000 for fiscal year 1991, $30,250,000 for fiscal year 1992, $33,275,000 for fiscal year 1993, and $36,602,000 for fiscal year 1994.

(h) There are authorized to be appropriated to carry out section 627 $6,500,000 for fiscal year 1991, $8,000,000 for fiscal year 1992, $9,500,000 for fiscal year 1993, and $11,500,000 for fiscal year 1994.

(20 U.S.C. 1427) Enacted October 30, 1990, P.L. 101–476, sec. 308, 104 Stat. 1128–29.

PART D—TRAINING PERSONNEL FOR THE EDUCATION OF INDIVIDUALS WITH DISABILITIES

GRANTS FOR PERSONNEL TRAINING

SEC. 631. (a)(1) The Secretary may make grants, which may include scholarships with necessary stipends and allowances, to institutions of higher education (including university affiliated programs and satellite centers participating in programs under part D of the Developmental Disabilities Assistance and Bill of Rights Act) and other appropriate nonprofit agencies to assist them in training personnel for careers in special education, related services, and early intervention, including—

(A) special education teaching, including speech-language pathology and audiology, and adapted physical education and instructional and assistive technology services,

(B)[1] related services to children and youth with disabilities in educational settings, and other settings,

(C)[1] special education and other careers in preschool and early intervention services for infants and toddlers with disabilities,

(D)[1] special education leadership, including supervision and administration (at the advanced graduate, doctoral, and post-doctoral levels), special education research, and special education personnel preparation (at the doctoral and post-doctoral levels), and

(E) training of special education personnel and other personnel providing special services and pre-school and early intervention services for children with disabilities.

(2)(A) The Secretary shall base the award of grants under paragraph (1) on information relating to the present and projected need for special education, related services, early intervention, and other personnel to be trained based on identified State, regional, or national shortages, including the need for personnel in the provision of special education to children of limited English proficiency, and the capacity of the institution or agency to train qualified personnel, and other information considered appropriate by the Secretary.

(B) The Secretary shall ensure that grants are only made under paragraph (1) to applicant agencies and institutions that meet State and professionally recognized standards for the preparation of special education and related services personnel unless the grant is for the purpose of assisting the applicant agency or institution to meet such standards, and that include in their applications a detailed description of strategies that will be utilized to recruit and train members of minority groups and persons with disabilities.

(3) Grants under paragraph (1) may be used by institutions to assist in covering the cost of courses of training or study for such personnel and for establishing and maintaining fellowships or traineeships with such stipends and allowances as may be determined by the Secretary. Such institutions shall give priority consideration in the selection of qualified recipients of fellowships and traineeships to individuals from disadvantaged backgrounds, including minorities and individuals with disabilities who are underrepresented in the teaching profession or in the specializations in which they are being trained.

(4) The Secretary in carrying out paragraph (1) may reserve a sum not to exceed 5 percent of the amount available for paragraph

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[1] So so in law. See section 401(a)(3) of Public Law 101-476 (104 Stat. 1129). Indentions are incorrect.

(1) in each fiscal year for contracts to prepare personnel in areas where shortages exist when a response to that need has not been adequately addressed by the grant process.

(5) In making grants under subsection (a)(1), the Secretary may determine that a portion of training supported through such grants shall be conducted on an interdisciplinary basis, and shall be designed to assist special educators in properly coordinating service provision with related services personnel. To the extent feasible, training programs funded under subsection (a)(1)(B) and (a)(1)(E) shall require practica to demonstrate the delivery of related services in an array of regular and special education and community settings.

(6) Nothing in this subsection shall be construed to prevent regular education or special education personnel from benefiting or participating in training activities conducted under this subsection on a preservice or inservice basis.

(7) The Secretary, in carrying out paragraph (1), shall make grants to Historically Black Colleges and Universities, and other institutions of higher education whose minority student enrollment is at least 25 percent.

(8)(A) In making grants under paragraph (1), the Secretary may make grants through a separate competition to institutions of higher education, in partnership with local educational agencies and center schools for students who are deaf, to carry out not less than 4 regional model demonstration training programs on deafness and secondary disabilities.

(B) Such programs shall provide preservice and inservice training to teachers and school administrators, and leadership personnel, in the education of students who are deaf and to related services personnel.

(8)[1] In making grants under paragraph (1), the Secretary may provide for the training or retraining of regular education teachers who are involved in providing instruction to individuals who are deaf, but who are not certified as teachers of such individuals, to meet the communications needs of such individuals.

(b)(1) The Secretary may make grants to institutions of higher education, and other appropriate nonprofit agencies or organizations for the establishment or continuation of educational interpreter training programs to train personnel to effectively meet the various communication needs of elementary and secondary students who are deaf or deaf-blind. To the extent feasible, grants shall be geographically dispersed throughout the Nation in urban and rural areas.

(2) The Secretary may make a grant under paragraph (1) only if the applicant for the grant provides an assurance that all interpreters receiving training under the grant will be provided training designed to develop skills necessary for facilitating effective communication for students who are deaf or deaf-blind.

(3) In making grants under paragraph (1), the Secretary may provide for the training or retraining (including short-term and inservice training) of regular education teachers who are involved in

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[1] So in law. There are two instances of a paragraph (8). The first was added by section 202(a) of Public Law 102–421 (106 Stat. 2165), and the second was added by section 912(a) of Public Law 102–569 (106 Stat. 4486).

providing instruction to individuals who are deaf, but who are not certified as teachers of such individuals, and other personnel who work with such individuals, on the role of educational interpreters.

(c) The Secretary may make grants to institutions of higher education, State agencies, and other appropriate nonprofit agencies and organizations to develop and demonstrate effective ways for preservice training programs to prepare regular educators to work with children and youth with disabilities and their families; for training teachers to work in community and school settings with school students with disabilities and their families; for inservice and preservice training of personnel to work with infants, toddlers, children, and youth with disabilities and their families; for inservice and preservice training of personnel to work with minority infants, toddlers, children, and youth with disabilities and their families; for preservice and inservice training of special education and related services personnel in the use of assistive and instructional technology to benefit infants, toddlers, children, and youth with disabilities; and for the recruitment and retention of special education, related services, and early intervention personnel. Both preservice and inservice training shall include a component that addresses the coordination among all service providers, including regular educators.

(d)(1) The Secretary shall fund up to 5 grants to States or entities to support the formation of consortia or partnerships of public and private entities for the purpose of providing opportunities for career advancement and/or competency-based training, including but not limited to, certificate or degree granting programs in special education, related services, and early intervention for current workers at public and private agencies that provide services to infants, toddlers, children, and youth with disabilities. Recipients shall meet the requirements of section 610(g) for the dissemination of information. The purposes for which such a grant may be expended include, but are not limited to, the following:

(A) Establishing a program with colleges and universities to develop creative new programs and coursework options and/or to expand existing programs in the field of special education, related services, or early intervention. Funds may be used to provide release time for faculty and staff for curriculum development, instructional costs, and modest start-up and other program development costs.

(B) Establishing a career development mentoring program using faculty and professional staff members of participating agencies as role models, career sponsors, and academic advisors for experienced State, city, county, and voluntary sector workers who have demonstrated a commitment to working in the above fields and who are enrolled in higher education institution programs relating to these fields.

(C) Supporting a wide range of programmatic and research activities aimed at increasing opportunities for career advancement and competency-based training in the above fields.

(D) Identifying existing public and private agency and labor union personnel policies and benefit programs that may facilitate the ability of workers to take advantage of higher education opportunities such as leave time, tuition reimbursement, etc.

(2) To the extent feasible, projects authorized under paragraph (1) shall be geographically dispersed throughout the Nation in urban and rural areas.

(3) The Secretary shall award, for the purpose of providing technical assistance to States or entities receiving grants under paragraph (1), a cooperative agreement through a separate competition to an entity that has successfully demonstrated the capacity and expertise in the education, training, and retention of workers to serve children and youth with disabilities through the use of consortia or partnerships established for the purpose of retaining the existing workforce and providing opportunities for career enhancement.

(4) The Secretary may conduct an evaluation of projects funded under this subsection.

(5) During the period in which an entity is receiving financial assistance under paragraph (1) or (3), the entity may not receive financial assistance under the other paragraph.

(e)(1) The Secretary may make grants through a separate competition to private nonprofit organizations for the purpose of providing training and information to parents of infants, toddlers, children, and youth with disabilities and persons who work with parents to enable such individuals to participate more effectively with professionals in meeting the educational needs of children with disabilities. Such grants shall be designed to meet the unique training and information needs of parents of infants, toddlers, children, and youth with disabilities living in the area to be served by the grant, particularly those who are members of groups that have been traditionally underrepresented.

(2) In order to receive a grant under paragraph (1) a private nonprofit organization shall—

(A) be governed by a board of directors of which a majority of the members are parents of infants, toddlers, children, and youth with disabilities, particularly minority parents, and that includes members who are professionals, especially minority professionals, in the field of special education, early intervention, and related services, and individuals with disabilities, or, if the nonprofit private organization does not have such a board, such organization shall have a membership that represents the interests of individuals with disabilities, and shall establish a special governing committee of which a majority of the members are parents of infants, toddlers, children, and youth with disabilities, particularly parents of minority children, and which includes members who are professionals, especially minority professionals, in the field of special education, early intervention, and related services, to operate the training and information program under paragraph (1), and parent and professional membership of these boards or special governing committees shall be broadly representative of minority and other individuals and groups having an interest in special education, early intervention, and related services;

(B) serve the parents of infants, toddlers, children, and youth with the full range of disabling conditions under such grant program; and

(C) demonstrate the capacity and expertise to conduct effectively the training and information activities for which a grant may be made under paragraph (1), and, for purposes of paragraph (1), network with clearinghouses, including those established under section 633 and other organizations and agencies, and network with other established national, State, and local parent groups representing the full range of parents of infants, toddlers, children, and youth with disabilities, especially parents of minority children.

Nothing in subparagraph (A) shall be construed to authorize or permit the denial to any person of the due process of law required by the United States Constitution.

(3) The board of directors or special governing committee of a private nonprofit organization receiving a grant under paragraph (1) shall meet at least once in each calendar quarter to review the parent training and information activities for which the grant is made, and each such committee shall advise the governing board directly of its views and recommendations. Whenever a private nonprofit organization requests the renewal of a grant under paragraph (1) for a fiscal year, the board of directors or the special governing committee shall submit to the Secretary a written review of the parent training and information program conducted by that private nonprofit organization during the preceding fiscal year.

(4) The Secretary shall ensure that grants under paragraph (1) will—

(A) be distributed geographically to the greatest extent possible throughout all the States and give priority to grants which involve unserved areas,

(B) be targeted to parents of children with disabilities in both urban and rural areas or on a State or regional basis,

(C) serve parents of minority children with disabilities (including parents served pursuant to paragraph (10)) representative to the proportion of the minority population in the areas being served by requiring that applicants for the grants identify with specificity the special efforts that will be undertaken to involve such parents, including efforts to work with community-based and cultural organizations and the specification of supplementary aids, services, and supports that will be made available, and by specifying budgetary items earmarked to accomplish this subparagraph, and

(D) be funded at a sufficient size, scope, and quality to ensure that the program is adequate to serve the parents in the area.

(5) Parent training and information programs assisted under paragraph (1) shall assist parents to—

(A) better understand the nature and needs of the disabling conditions of children,

(B) provide followup support for educational programs of children with disabilities,

(C) communicate more effectively with special and regular educators, administrators, related services personnel, and other relevant professionals,

(D) participate in educational decisionmaking processes, including the development of the individualized education program for a child with a disability,

(E) obtain appropriate information about the range of options, programs, services, and resources available at the national, State, and local levels to assist infants, toddlers, children, and youth with disabilities and their families, and

(F) understand the provisions for the education of infants, toddlers, children, and youth with disabilities under this Act.

(6) Parent training and information programs may, at a grant recipient's discretion, include State or local educational personnel where such participation will further an objective of the program assisted by the grant.

(7) Each private nonprofit organization operating a program receiving a grant under paragraph (1) shall consult and network with appropriate national, State, regional, and local agencies and organizations, such as protection and advocacy agencies, that serve or assist infants, toddlers, children, and youth with disabilities and their families and are located in the jurisdictions served by the program.

(8) The Secretary shall provide technical assistance, by grant or contract, for establishing, developing, and coordinating parent training and information programs.

(9) After the establishment in each State of a parent training and information center, the Secretary shall provide for the establishment of 3 experimental centers to serve large numbers of parents of children with disabilities located in high density areas that do not have such centers and 2 such centers to serve large numbers of parents of children with disabilities located in rural areas.

(10)(A) In the case of a grant under paragraph (1) to a private nonprofit organization for fiscal year 1993 or 1994, the organization, in expending the amounts described in subparagraph (B), shall give priority to providing services under this subsection to parents of children with disabilities aged 0–5.

(B) With respect to a grant under paragraph (1) to a private nonprofit organization for fiscal year 1993 or 1994, the amounts described in this subparagraph are any amounts provided in the grant in excess of the amount of any grant under such paragraph provided to the organization for fiscal year 1992.

(11) Effective for fiscal year 1991 and every year thereafter, the Secretary shall obtain data concerning programs and centers assisted under this subsection on—

(A) the number of parents provided information and training by disability category of their children,

(B) the types and modes of information or training provided,

(C) strategies used to reach and serve parents of minority infants, toddlers, children, and youth with disabilities,

(D) the number of parents served as a result of activities described under subparagraph (C),

(E) activities to network with other information clearinghouses and parent groups as required in subsection (c)(2)(C),

(F) the number of agencies and organizations consulted with at the national, State, regional, and local levels, and

(G) the number of parents served under this subsection who are parents of children with disabilities aged 0–5.

The Secretary shall include a summary of this information in the annual report to Congress as required in section 618(g).

(20 U.S.C. 1431) Enacted April 13, 1970, P.L. 91–230, Title VI, sec. 631, 84 Stat. 184; amended December 2, 1983, P.L. 98–199, sec. 11, 97 Stat. 1369; amended October 8, 1986, P.L. 99–457, sec. 308, 100 Stat. 1165; amended November 7, 1988, P.L. 100–630, sec. 104(b), 102 Stat. 3298; amended October 30, 1990, P.L. 101–476, sec. 401, 901(b)(129)–(142), 104 Stat. 1129, 1148; amended October 7, 1991, P.L. 102–119, secs. 9(a),(b) and 25(a)(12), 105 Stat. 593 and 606; amended October 16, 1992, P.L. 102–421, sec. 202, 106 Stat. 2165; amended October 29, 1992, P.L. 102–569, sec. 912(a), 106 Stat. 4486.

GRANTS TO STATE EDUCATIONAL AGENCIES AND INSTITUTIONS FOR TRAINEESHIPS

SEC. 632. (a) The Secretary shall make a grant of sufficient size and scope to each State educational agency for the purposes described in subsection (c) and, in any State in which the State educational agency does not apply for such a grant, to an institution of higher education within such State for such purposes.

(b) The Secretary may also make a limited number of grants to State educational agencies on a competitive basis for the purposes described in subsection (c). In any fiscal year, the Secretary may not expend for purposes of this subsection an amount that exceeds 10 percent of the amount expended for purposes of this section in the preceding fiscal year.

(c) Grants made under this section shall be for the purpose of assisting States in establishing and maintaining preservice and inservice programs to prepare special and regular education, related services and early intervention personnel to meet the needs of infants, toddlers, children, and youth with disabilities or supervisors of such persons, consistent with the personnel needs identified in the State's comprehensive system of personnel development under section 613 and under section 676(b)(8), and to assist the State in developing and maintaining such systems and conducting personnel recruitment and retention activities.

(d) The Secretary is authorized to provide directly or by grant, contract, or cooperative agreement, technical assistance to State educational agencies on matters pertaining to the effective implementation of section 613(a)(3).

(20 U.S.C. 1432) Enacted April 13, 1970, P.L. 91–230, Title VI, sec. 632, 84 Stat. 184; amended December 2, 1983, P.L. 98–199, sec. 11, 97 Stat. 1371; amended October 8, 1986, P.L. 99–457, sec. 309, 100 Stat. 1168; amended November 7, 1988, P.L. 100–630, sec. 104(c), 102 Stat. 3298–9; amended October 30, 1990, P.L. 101–476, sec. 402, 901(b)(143), 104 Stat. 1132, 1148.

Note: Section 104(d) of Public Law 100–630 (102 Stat. 3299) provides that notwithstanding section 632 of the Education of the Handicapped Act, "the Secretary of Education may make continuation grants for the fiscal year 1989 to institutions of higher education that received competitive grants for the fiscal year 1987".

CLEARINGHOUSES

SEC. 633. (a) The Secretary is authorized to make grants to, or enter into contracts or cooperative agreements with, public agencies or private nonprofit organizations or institutions for the establishment of three national clearinghouses: on children and youth with disabilities; on postsecondary education for individuals with disabilities; and on careers in special education, to—

(1) collect, develop, and disseminate information,

(2) provide technical assistance,

(3) conduct coordinated outreach activities,

(4) provide for the coordination and networking with other relevant national, State, and local organizations and information and referral resources,

(5) respond to individuals and organizations seeking information, and

(6) provide for the synthesis of information for its effective utilization by parents, professionals, individuals with disabilities, and other interested parties.

(b) The national clearinghouse for children and youth with disabilities shall:

(1) Collect and disseminate information (including the development of materials) on characteristics of infants, toddlers, children, and youth with disabilities and on programs, legislation, and services relating to their education under this Act and other Federal laws.

(2) Participate in programs and services related to disability issues for providing outreach, technical assistance, collection, and dissemination of information; and promoting networking of individuals with appropriate national, State, and local agencies and organizations.

(3) Establish a coordinated network and conduct outreach activities with relevant Federal, State, and local organizations and other sources for promoting public awareness of disability issues and the availability of information, programs, and services.

(4) Collect, disseminate, and develop information on current and future national, Federal, regional, and State needs for providing information to parents, professionals, individuals with disabilities, and other interested parties relating to the education and related services of individuals with disabilities.

(5) Provide technical assistance to national, Federal, regional, State and local agencies and organizations seeking to establish information and referral services for individuals with disabilities and their families.

(6) In carrying out the activities in this subsection, the clearinghouse will include strategies to disseminate information to underrepresented groups such as those with limited English proficiency.

(c) The national clearinghouse on postsecondary education for individuals with disabilities shall:

(1) Collect and disseminate information nationally on characteristics of individuals entering and participating in education and training programs after high school; legislation affecting such individuals and such programs; policies, procedures, and support services, as well as adaptations, and other resources available or recommended to facilitate the education of individuals with disabilities; available programs and services that include, or can be adapted to include, individuals with disabilities; and sources of financial aid for the education and training of individuals with disabilities.

(2) Identify areas of need for additional information.

(3) Develop new materials (in both print and nonprint form), especially by synthesizing information from a variety of fields affecting disability issues and the education, rehabilitation, and retraining of individuals with disabilities.

(4) Develop a coordinated network of professionals, related organizations and associations, mass media, other clearinghouses, and governmental agencies at the Federal, regional, State, and local level for the purposes of disseminating information and promoting awareness of issues relevant to the education of individuals with disabilities after high school and referring individuals who request information to local resources.

(5) Respond to requests from individuals with disabilities, their parents, and professionals who work with them, for information that will enable them to make appropriate decisions about postsecondary education and training.

(d) The national clearinghouse designed to encourage students to seek careers and professional personnel to seek employment in the various fields relating to the education of children and youth with disabilities shall:

(1) Collect and disseminate information on current and future national, regional, and State needs for special education and related services personnel.

(2) Disseminate information to high school counselors and others concerning current career opportunities in special education, location of programs, and various forms of financial assistance (such as scholarships, stipends, and allowances).

(3) Identify training programs available around the country.

(4) Establish a network among local and State educational agencies and institutions of higher education concerning the supply of graduates and available openings.

(5) Provide technical assistance to institutions seeking to meet State and professionally recognized standards.

(e)(1) In awarding grants, contracts, and cooperative agreements under this section, the Secretary shall give priority consideration to any applicant with demonstrated, proven effectiveness (at the national level) in performing the functions established in this section; and with the ability to conduct such projects, communicate with intended consumers of information, and maintain the necessary communication with national, regional, State, and local agencies and organizations.

(2) In awarding grants, contracts, and cooperative agreements under this section, the Secretary shall give priority consideration to any applicant with demonstrated, proven effectiveness (at the national level) in providing informational services to minorities and minority organizations.

(f)(1) Beginning in fiscal year 1991, and for each year thereafter, the Secretary shall obtain information on each project assisted under this section, including—

(A) the number of individuals served by disability category, as appropriate, including parents, professionals, students, and individuals with disabilities;

(B) a description of responses utilized;

(C) a listing of new products developed and disseminated; and

(D) a description of strategies and activities utilized for outreach to urban and rural areas with populations of minorities and underrepresented groups.

(2) A summary of the data required by this subsection shall be included in the annual report to Congress required under section 618.

(20 U.S.C. 1433) Enacted October 30, 1990, P.L. 101–476, sec. 403, 104 Stat. 1133.

REPORTS TO THE SECRETARY

SEC. 634. (a) Not more than sixty days after the end of any fiscal year, each recipient of a grant or contract under this part during such fiscal year shall prepare and submit a report to the Secretary. Each such report shall be in such form and detail as the Secretary determines to be appropriate, and shall include—

(1) the number of individuals trained under the grant or contract, by category of training and level of training;

(2) the number of individuals trained under the grant or contract receiving degrees and certification, by category and level of training; and

(3) information described in section 631(d)(11) and section 633(f)(1), as applicable.

(b) A summary of the data required by this section shall be included in the annual report of the Secretary under section 618 of this Act.

(20 U.S.C. 1434) Enacted April 13, 1970, P.L. 91–230, Title VI, sec. 634, 84 Stat. 185; amended December 2, 1983, P.L. 98–199, sec. 11, 97 Stat. 1372; amended October 30, 1990, P.L. 101–476, sec. 404, 104 Stat. 1135; amended October 7, 1991, P.L. 102–119, sec. 9(c)(1), 105 Stat. 595.

AUTHORIZATION OF APPROPRIATIONS

SEC. 635. (a)(1) There are authorized to be appropriated to carry out this part (other than sections 631(a)(7), 631(d), and 633) $94,725,000 for fiscal year 1991, $103,255,000 for fiscal year 1992, $113,580,000 for fiscal year 1993, and $123,760,000 for fiscal year 1994.

(2) There are authorized to be appropriated to carry out section 631(a)(7) $19,250,000 for fiscal year 1991, $21,175,000 for fiscal year 1992, $23,292,500 for fiscal year 1993, and $25,621,750 for fiscal year 1994.

(3) There are authorized to be appropriated to carry out section 631(d) $11,000,000 for fiscal year 1991, $15,100,000 for fiscal year 1992, $16,300,000 for fiscal year 1993, and $17,600,000 for fiscal year 1994.

(4) There are authorized to be appropriated to carry out section 633 $2,900,000 for fiscal year 1991, $2,465,000 for fiscal year 1992, $2,710,000 for fiscal year 1993, and $2,960,000 for fiscal year 1994.

(b) Of the funds appropriated pursuant to subsection (a) for any fiscal year, the Secretary shall reserve not less than 65 per centum for activities described in subparagraphs (A) through (E) of section 631(a)(1).

(20 U.S.C. 1435) Enacted April 13, 1970, P.L. 91–230, Title VI, sec. 635, 84 Stat. 185; amended December 2, 1983, P.L. 98–199, sec. 11, 97 Stat. 1372; amended October 8, 1986, P.L. 99–457, sec. 311, 100 Stat. 1169; amended October 30, 1990, P.L. 101–476, sec. 405, 104 Stat. 1135; amended October 7, 1991, P.L. 102–119, secs. 9(c)(2), 10, and 25(a)(13), 105 Stat. 595 and 606.

PART E—RESEARCH IN THE EDUCATION OF HANDICAPPED INDIVIDUALS

RESEARCH AND RELATED ACTIVITIES

SEC. 641. (a) The Secretary may make grants to, or enter into contracts or cooperative agreements with, State and local educational agencies, institutions of higher education, other public agencies and nonprofit private organizations for the purpose of advancing and improving the knowledge base and improving the practice of professionals, parents, and others providing early intervention, special education, and related services, including professionals who work with children and youth with disabilities in regular education environments, to provide such children effective instruction and enable them to successfully learn. The activities supported under this section shall support innovation, development, exchange, and use of such advancements in knowledge and practice designed to contribute to the improvement of instruction and learning of infants, toddlers, children, and youth with disabilities. In carrying out this section, the Secretary may support a wide range of research and related activities designed to—

(1) advance knowledge regarding the provision of instruction and other interventions to infants, toddlers, children, and youth with disabilities including—

(A) the organization, synthesis, and interpretation of current knowledge and the identification of knowledge gaps;

(B) the identification of knowledge and skill competencies needed by personnel providing special education, related services, and early intervention services;

(C) the improvement of knowledge regarding the developmental and learning characteristics of infants, toddlers, children, and youth with disabilities in order to improve the design and effectiveness of interventions and instruction;

(D) the evaluation of approaches and interventions;

(E) the development of instructional strategies, techniques, and activities;

(F) the improvement of curricula and instructional tools such as textbooks, media, materials, and technology;

(G) the development of assessment techniques, instruments (including tests, inventories, and scales), and strategies for measurement of progress and the identification, location, and evaluation of infants, toddlers, children, and youth with disabilities for the purpose of determining eligibility, program planning, and placement for special education, related services, and early intervention services. Particular attention should be given to the development of alternative assessment procedures and processes for minority individuals and those with limited English proficiency;

(H) the testing of research findings in practice settings to determine the application, usability, effectiveness, and generalizability of such research findings;

(I) the improvement of knowledge regarding families, minorities, limited English proficiency, and disabling conditions; and

(J) the identification of environmental, organizational, resource, and other conditions necessary for effective professional practice; and

(2) advance the use of knowledge by personnel providing special education, related services, and early intervention services including—

(A) the improvement of knowledge regarding how such individuals learn new knowledge and skills, and strategies for effectively facilitating such learning in preservice, inservice, and continuing education;

(B) the organization, integration, and presentation of knowledge so that such knowledge can be incorporated and imparted in personnel preparation, continuing education programs, and other relevant training and communication vehicles; and

(C) the expansion and improvement of networks that exchange knowledge and practice information.

(b) In carrying out subsection (a), the Secretary shall consider the special education, related services, or early intervention and research experience of applicants.

(c) The Secretary shall publish proposed priorities under this part in the Federal Register not later than 12 months preceding the fiscal year for which they are being announced, and shall allow a period of 60 days for public comments and suggestions. The Secretary shall, after analyzing and considering the public comments, publish final priorities in the Federal Register not later than 90 days after the close of the comment period.

(d) The Secretary shall provide an index (including the title of each project and the name and address of the funded organization) of all projects conducted under this part in the prior fiscal year in the annual report described under section 618.

(e) The Secretary shall—

(1) coordinate the priorities established under subsection (b) with research priorities established by the National Institute for Disability and Rehabilitation Research and other ap-

propriate agencies conducting research pertaining to the education of individuals with disabilities; and

(2) provide information concerning priorities established under subsection (b) to the National Council on Disability and to the Bureau of Indian Affairs Advisory Committee for Exceptional Children.

(f)(1) The Secretary shall make grants or enter into contracts or cooperative agreements for the establishment of a center or centers designed to organize, synthesize, and disseminate current knowledge relating to children with attention deficit disorder with respect to the following:

(A) Assessment techniques, instruments, and strategies used for identification, location, evaluation and for measurement of progress.

(B) Knowledge and skill competencies needed by professionals providing special and regular education and related services.

(C) Environmental, organizational, resource, and other conditions necessary for effective professional practice.

(D) Developmental and learning characteristics.

(E) Instructional strategies, techniques, and activities.

(F) Curricula and instructional tools such as textbooks, media, materials, and technology.

(G) Strategies, techniques, and activities related to involvement of families.

(2) In awarding grants, contracts, and cooperative agreements under paragraph (1), the Secretary shall give priority consideration to applicants with—

(A) demonstrated knowledge concerning the disorder;

(B) proven effectiveness in performing the functions established in this subsection; and

(C) the ability to—

(i) conduct such projects;

(ii) communicate with intended consumers of information; and

(iii) maintain the necessary communication with national, regional, State, and local agencies.

(g)(1) The Secretary shall make grants, or enter into contracts or cooperative agreements, for the establishment of model demonstration programs, of which some will be school-based models, that provide the services of an ombudsman to assist in resolving problems that are barriers to appropriate educational, related services, or other services for children and youth with disabilities.

(2) Programs under paragraph (1) shall provide or identify personnel to assist children and youth with disabilities, their parents or guardians, special and regular education teachers, State and local education administrators, and related services personnel to resolve problems in a timely manner through dispute mediation and other methods, notwithstanding due process procedures, in order to further the delivery of appropriate education and related services. Participation in this program does not preclude or delay due process under part B of this Act.

(3) Ombudsman services for programs under paragraph (1) shall be provided by social workers, parent advocates, psycholo-

gists, and persons with similar qualifications designated by the Secretary.

(h)(1) The Secretary may make grants to institutions of higher education, in partnership with other appropriate agencies and organizations such as local educational agencies and center schools for students who are deaf, to—

(A) conduct research in the unique needs of children and youth, including minority children and youth, with disabilities;

(B) develop and evaluate specialized instructional methods, materials, curricula, and technologies for use with such children and youth; and

(C) develop and evaluate assessment techniques, instruments, and strategies used to identify, evaluate, and measure the progress of such children and youth.

(2) Each grantee under this subsection shall provide for the meaningful involvement in its project of parents and family members and adult role models.

(20 U.S.C. 1441) Enacted October 30, 1990, P.L. 101–476, sec. 501, 104 Stat. 1135–38; amended October 16, 1992, P.L. 102–421, sec. 203, 106 Stat. 2165.

RESEARCH AND DEMONSTRATION PROJECTS IN PHYSICAL EDUCATION AND RECREATION FOR CHILDREN WITH DISABILITIES

SEC. 642. The Secretary is authorized to make grants to States, State or local educational agencies, institutions of higher education, and other public or nonprofit private educational or research agencies and organizations, and to make contracts with States, State or local educational agencies, institutions of higher education, and other public or private educational or research agencies and organizations, for research and related purposes relating to physical education or recreation for children with disabilities, including therapeutic recreation, and to conduct research, surveys, or demonstrations relating to physical education or recreation for children with disabilities, including therapeutic recreation.

(20 U.S.C. 1442) Enacted April 13, 1970, P.L. 91–230, Title VI, sec. 642, 84 Stat. 185; amended December 2, 1983, P.L. 98–199, sec. 12, 97 Stat. 1373; amended October 30, 1990, P.L. 101–476, sec. 502, 104 Stat. 1138; amended October 7, 1991, P.L. 102–119, sec. 25(a)(14), 105 Stat. 606.

AUTHORIZATION OF APPROPRIATIONS

SEC. 643. For purposes of carrying out this part, there are authorized to be appropriated $21,100,000 for fiscal year 1990, $24,650,000 for fiscal year 1991, $27,400,000 for fiscal year 1992, $30,200,000 for fiscal year 1993, and $33,200,000 for fiscal year 1994.

(20. U.S.C. 1443) Enacted October 30, 1990, P.L. 101–476, sec. 504, 104 Stat. 1138.

PART F—INSTRUCTIONAL MEDIA FOR INDIVIDUALS WITH DISABILITIES

PURPOSES

SEC. 651. The purposes of this part are to promote—

(1) the general welfare of deaf and hard of hearing individuals by—

(A) bringing to such individuals understanding and appreciation of those films and television programs that play such an important part in the general and cultural advancement of hearing individuals;

(B) providing through these films and television programs enriched educational and cultural experiences through which deaf and hard of hearing individuals can be brought into better touch with the realities of their environment; and

(C) providing a wholesome and rewarding experience that deaf and hard of hearing individuals may share together; and[1]

(2) the educational advancement of individuals with disabilities by—

(A) carrying on research in the use of educational media for individuals with disabilities;

(B) producing and distributing educational media for the use of individuals with disabilities, their parents, their actual or potential employers, and other individuals directly involved in work for the advancement of individuals with disabilities;

(C) training individuals in the use of educational media for the instruction of individuals with disabilities; and

(D) utilizing educational media to help eliminate illiteracy among individuals with disabilities;[1]

(3) the general welfare of visually impaired individuals by—

(A) bringing to such individuals an understanding and appreciation of textbooks, films, television programs, video material, and other educational publications and materials that play such an important part in the general and cultural advancement of visually unimpaired individuals; and

(B) ensuring access to television programming and other video materials.

(20 U.S.C. 1451) Enacted April 13, 1970, P.L. 91–230, Title VI, sec. 651, 84 Stat. 186; amended November 7, 1988, P.L. 100–630, sec. 106(f), 102 Stat. 3300; amended October 30, 1990, P.L. 101–476, sec. 601, 901(b)(150), 104 Stat. 1138, 1149.

CAPTIONED FILMS, TELEVISION, DESCRIPTIVE VIDEO, AND EDUCATIONAL MEDIA FOR HANDICAPPED INDIVIDUALS

SEC. 652. (a) The Secretary shall establish a loan service of captioned films, descriptive video and educational media for the purpose of making such materials available, in accordance with regulations, in the United States for nonprofit purposes to individuals with disabilities, parents of individuals with disabilities, and other individuals directly involved in activities for the advancement of individuals with disabilities, including for the purpose of addressing problems of illiteracy among individuals with disabilities.

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[1] So in law. See section 601 of Public Law 101–476 (104 Stat. 1138). The word "and" probably should not appear at the end of paragraph (1), and there probably should be an "and" at the end of paragraph (2). Paragraph (3) of such section 601 provided that section 651 is amended by striking the period at the end of paragraph (2) and inserting "; and". This amendment cannot be executed due to the amendment made by paragraph (2) of such section 601, which resulted in a semicolon (rather than a period) being at the end of paragraph (2).

(b) The Secretary is authorized to—

(1) acquire films (or rights thereto) and other educational media by purchase, lease, or gift;

(2) acquire by lease or purchase equipment necessary for the administration of this part;

(3) provide, by grant or contract, for the captioning for deaf and hard of hearing individuals and video description for the visually impaired, of films, television programs, and video materials;

(4) provide, by grant or contract, for the distribution of captioned and video-described films, video materials, and other educational media and equipment through State schools for handicapped individuals, public libraries, and such other agencies or entities as the Secretary may deem appropriate to serve as local or regional centers for such distribution;

(5) provide, by grant or contract, for the conduct of research in the use of educational and training films and other educational media for individuals with disabilities, for the production and distribution of educational and training films and other educational media for individuals with disabilities and the training of individuals in the use of such films and media, including the payment to those individuals of such stipends (including allowances for travel and other expenses of such individuals and their dependents) as the Secretary may determine, which shall be consistent with prevailing practices under comparable federally supported programs;

(6) utilize the facilities and services of other governmental agencies;

(7) accept gifts, contributions, and voluntary and uncompensated services of individuals and organizations; and

(8) provide by grant or contract for educational media and materials for deaf and hard of hearing individuals.

(c) The Secretary may make grants to or enter into contracts or cooperative agreements with the National Theatre of the Deaf, Inc. and other appropriate non-profit organizations for the purpose of providing cultural experiences to—

(1) enrich the lives of deaf and hard of hearing children and adults,

(2) increase public awareness and understanding of deafness and of the artistic and intellectual achievements of deaf and hard of hearing individuals, and

(3) promote the integration of hearing and deaf and hard of hearing individuals through shared cultural, educational, and social experiences.

(d)(1) The Secretary is authorized to make a grant or enter into a contract for the purpose of providing current, free textbooks and other educational publications and materials to blind and other print-handicapped students in elementary, secondary, postsecondary, and graduate schools and other institutions of higher education through the medium of transcribed tapes and cassettes.

(2) For the purpose of this subsection, the term "print-handicapped" refers to any individual who is blind or severely visually impaired, or who, by reason of a physical or perceptual disability, is unable to read printed material unassisted.

(20 U.S.C. 1452) Enacted April 13, 1970, P.L. 91–230, Title VI, sec. 652, 84 Stat. 186; amended August 21, 1974, P.L. 93–380, sec. 620, 88 Stat. 685; amended October 12, 1976, P.L. 94–482, Title V, Part A, sec. 501(h), 90 Stat. 2237; amended October 8, 1986, P.L. 99–457, sec. 315, 100 Stat. 1171; amended November 7, 1988, P.L. 100–630, sec. 106(c), 102 Stat. 3300–3301; amended October 30, 1990, P.L. 101–476, secs. 602 and 901(b) (151) and (152), 104 Stat. 1139, 1149.

AUTHORIZATION OF APPROPRIATIONS

SEC. 653. For the purpose of carrying out section 652 there are authorized to be appropriated $20,010,000 for fiscal year 1991, $22,010,000 for fiscal year 1992, $24,200,000 for fiscal year 1993, and $26,600,000 for fiscal year 1994.

(20 U.S.C. 1454) Enacted October 30, 1990, P.L. 101–476, sec. 603, 104 Stat. 1140.

PART G—TECHNOLOGY, EDUCATIONAL MEDIA, AND MATERIALS FOR INDIVIDUALS WITH DISABILITIES

FINANCIAL ASSISTANCE

SEC. 661. (a) The Secretary may make grants or enter into contracts or cooperative agreements with institutions of higher education, State and local educational agencies, or other appropriate agencies and organizations for the purpose of advancing the use of new technology, media, and materials in the education of students with disabilities and the provision of related services and early intervention services to infants and toddlers with disabilities. In carrying out this section, the Secretary may fund projects or centers for the purposes of—

(1) determining how technology, assistive technology, media, and materials are being used in the education of individuals with disabilities and how they can be used most effectively, efficiently, and appropriately,

(2) designing and adapting technology, assistive technology, media, and materials to improve the education of students with disabilities,

(3) assisting the public and private sectors in the development and marketing of technology, assistive technology, media, and materials for the education of individuals with disabilities,

(4) disseminating information on the availability and use of technology, assistive technology, media, and materials for the education of individuals with disabilities, where appropriate, to entities described in section 610(g),

(5) increasing access to and use of assistive technology devices and assistive technology services in the education of infants, toddlers, children, and youth with disabilities, and other activities authorized under the Technology-Related Assistance for Individuals With Disabilities Act of 1988, as such Act relates to the education of students with disabilities, and

(6) examining how these purposes can address the problem of illiteracy among individuals with disabilities.

(b)(1) With respect to new technology, media, and materials utilized with funds under this part to improve the education of students with disabilities, the Secretary shall make efforts to ensure that such instructional materials are closed captioned.

(2) The Secretary may not award a grant, contract, or cooperative agreement under paragraphs (1) through (4) of subsection (a) unless the applicant for such assistance agrees that activities carried out with the assistance will be coordinated, as appropriate, with the State entity receiving funds under title I of the Technology-Related Assistance for Individuals with Disabilities Act of 1988.

(20 U.S.C. 1461) Enacted October 8, 1986, P.L. 99–457, sec. 317, 100 Stat. 1171; amended November 7, 1988, P.L. 100–630, sec. 107(b), 102 Stat. 3301; amended October 30, 1990, P.L. 101–476, sec. 701 and 901(b)(154)–(156), 104 Stat. 1140, 1149; amended October 7, 1991, P.L. 102–119, sec. 25(a)(15), 105 Stat. 606.

AUTHORIZATION OF APPROPRIATIONS

SEC. 662. For the purpose of carrying out this part, there are authorized to be appropriated $11,900,000 for fiscal year 1991, $12,860,000 for fiscal year 1992, $13,890,000 for fiscal year 1993, and $15,000,000 for fiscal year 1994.

(20 U.S.C. 1462) Enacted October 8, 1986, P.L. 99–457, sec. 317, 100 Stat. 1171; amended October 30, 1990, P.L. 101–476, sec. 702, 104 Stat. 1141.

PART H—INFANTS AND TODDLERS WITH DISABILITIES

FINDINGS AND POLICY

SEC. 671. (a) FINDINGS.—The Congress finds that there is an urgent and substantial need—

(1) to enhance the development of infants and toddlers with disabilities and to minimize their potential for developmental delay,

(2) to reduce the educational costs to our society, including our Nation's schools, by minimizing the need for special education and related services after infants and toddlers with disabilities reach school age,

(3) to minimize the likelihood of institutionalization of individuals with disabilities and maximize the potential for their independent living in society,

(4) to enhance the capacity of families to meet the special needs of their infants and toddlers with disabilities, and

(5) to enhance the capacity of State and local agencies and service providers to identify, evaluate, and meet the needs of historically underrepresented populations, particularly minority, low-income, inner-city, and rural populations.

(b) POLICY.—It is therefore the policy of the United States to provide financial assistance to States—

(1) to develop and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency program of early intervention services for infants and toddlers with disabilities and their families,

(2) to facilitate the coordination of payment for early intervention services from Federal, State, local, and private sources (including public and private insurance coverage), and

(3) to enhance their capacity to provide quality early intervention services and expand and improve existing early intervention services being provided to infants and toddlers with disabilities and their families.

(20 U.S.C. 1471) Enacted October 8, 1986, P.L. 99–457, sec. 101(a), 100 Stat. 1145; amended November 7, 1988, P.L. 100–630, sec. 108(a), 102 Stat. 3301; amended October 30, 1990, P.L. 101–476, sec. 901(b)(158)–(161); amended October 7, 1991, P.L. 102–119, secs. 11 and 25(a)(16), 105 Stat. 595 and 606.

DEFINITIONS

SEC. 672. As used in this part—

(1) The term "infants and toddlers with disabilities" means individuals from birth to age 2, inclusive, who need early intervention services because they—

(A) are experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures in one or more of the following areas: cognitive development, physical development, language and speech development (hereafter in this part referred to as "communication development"), psychosocial development (hereafter in this part referred to as "social or emotional development"), or self-help skills (hereafter in this part referred to as "adaptive development"), or

(B) have a diagnosed physical or mental condition which has a high probability of resulting in developmental delay.

Such term may also include, at a State's discretion, individuals from birth to age 2, inclusive, who are at risk of having substantial developmental delays if early intervention services are not provided.

(2) The term "early intervention services" are developmental services which—

(A) are provided under public supervision,

(B) are provided at no cost except where Federal or State law provides for a system of payments by families, including a schedule of sliding fees,

(C) are designed to meet the developmental needs of an infant or toddler with a disability in any one or more of the following areas:

(i) physical development,
(ii) cognitive development,
(iii) communication development,
(iv) social or emotional development, or
(v) adaptive development,

(D) meet the standards of the State, including the requirements of this part,

(E) include—

(i) family training, counseling, and home visits,
(ii) special instruction.
(iii) speech pathology and audiology,
(iv) occupational therapy,
(v) physical therapy,
(vi) psychological services,

(vii) case management services (hereafter in this part referred to as "service coordination services"),

(viii) medical services only for diagnostic or evaluation purposes,

(ix) early identification, screening, and assessment services,

(x) health services necessary to enable the infant or toddler to benefit from the other early intervention services,

(xi) social work services,

(xii) vision services,

(xiii) assistive technology devices and assistive technology services, and

(xiv) transportation and related costs that are necessary to enable an infant or toddler and the infant's or toddler's family to receive early intervention services,

(F) are provided by qualified personnel, including—

(i) special educators,

(ii) speech and language pathologists and audiologists,

(iii) occupational therapists,

(iv) physical therapists,

(v) psychologists,

(vi) social workers,

(vii) nurses,

(viii) nutritionists,

(ix) family therapists,

(x) orientation and mobility specialists, and

(xi) pediatricians and other physicians,

(G) to the maximum extent appropriate, are provided in natural environments, including the home, and community settings in which children without disabilities participate, and

(H) are provided in conformity with an individualized family service plan adopted in accordance with section 677.

(3) The term "developmental delay" has the meaning given such term by a State under section 676(b)(1).

(4) The term "Council" means the State Interagency Coordinating Council established under section 682.

(20 U.S.C. 1472) Enacted October 8, 1986, P.L. 99–457, sec. 101(a), 100 Stat. 1146; amended November 7, 1988, P.L. 100–630, sec. 108(b), 102 Stat. 3301; amended October 30, 1990, P.L. 101–476, secs. 801 and 901(b)(162)–(163), 104 Stat. 1141, 1149; amended October 7, 1991, P.L. 102–119, sec. 12, 105 Stat. 595.

GENERAL AUTHORITY

SEC. 673. The Secretary shall, in accordance with this part, make grants to States (from their allocations under section 684) to assist each State to develop a statewide, comprehensive, coordinated, multidisciplinary, interagency system to provide early intervention services for infants and toddlers with disabilities and their families.

(20 U.S.C. 1473) Enacted October 8, 1986, P.L. 99–457, sec. 101(a), 100 Stat. 1147; amended P.L. 101–476, October 30, 1990, sec. 901(b)(164), 104 Stat. 1150.

GENERAL ELIGIBILITY

SEC. 674. In order to be eligible for a grant under section 673 for any fiscal year, a State shall demonstrate to the Secretary (in its application under section 678) that the State has established a State Interagency Coordinating Council which meets the requirements of section 682.

(20 U.S.C. 1474) Enacted October 8, 1986, P.L. 99–457, sec. 101(a), 100 Stat. 1147.

CONTINUING ELIGIBILITY

SEC. 675. (a) FIRST TWO YEARS.—In order to be eligible for a grant under section 673 for the first or second year of a State's participation under this part, a State shall include in its application under section 678 for that year an assurance that funds received under section 673 shall be used to assist the State to plan, develop, and implement the statewide system required by section 676.

(b) THIRD AND FOURTH YEAR.—(1) In order to be eligible for a grant under section 673 for the third or fourth year of a State's participation under this part, a State shall include in its application under section 678 for that year information and assurances demonstrating to the satisfaction of the Secretary that—

(A) the State has adopted a policy which incorporates all of the components of a statewide system in accordance with section 676 or obtained a waiver from the Secretary under paragraph (2),

(B) funds shall be used to plan, develop, and implement the statewide system required by section 676, and

(C) such statewide system will be in effect no later than the beginning of the fourth year of the State's participation under section 673, except that in order to comply with section 676(b)(4), a State need only conduct multidisciplinary assessments, develop individualized family service plans, and make available case management services.

(2) Notwithstanding paragraph (1), the Secretary may permit a State to continue to receive assistance under section 673 during such third year even if the State has not adopted the policy required by paragraph (1)(A) before receiving assistance if the State demonstrates in its application—

(A) that the State has made a good faith effort to adopt such a policy,

(B) the reasons why it was unable to meet the timeline and the steps remaining before such a policy will be adopted, and

(C) an assurance that the policy will be adopted and go into effect before the fourth year of such assistance.

(c) FIFTH AND SUCCEEDING YEARS.—In order to be eligible for a grant under section 673 for a fifth and any succeeding year of a State's participation under this part, a State shall include in its application under section 678 for that year information and assurances demonstrating to the satisfaction of the Secretary that the State has in effect the statewide system required by section 676 and a description of services to be provided under section 676(b)(2).

(d) EXCEPTION.—Notwithstanding subsections (a) and (b), a State which has in effect a State law, enacted before September 1, 1986, that requires the provision of free appropriate public education to children with disabilities from birth through age 2, inclusive, shall be eligible for a grant under section 673 for the first through fourth years of a State's participation under this part.

(e) DIFFERENTIAL FUNDING FOR FOURTH OR FIFTH YEAR.—

(1) IN GENERAL.—Notwithstanding any other provision of this part, a State shall be eligible for a grant under section 673 for fiscal years 1990, 1991, or 1992 if—

(A) the State satisfies the eligibility criteria described in subsection (b)(1) pertaining to the State's third or fourth year of participation under this part; and

(B) the Governor, on behalf of the State, submits, by a date that the Secretary may establish for each such year, a request for extended participation, including—

(i) information demonstrating to the Secretary's satisfaction that the State is experiencing significant hardships in meeting the requirements of this section for the fourth or fifth year of participation; and

(ii) a plan, including timelines, for meeting the eligibility criteria described in subsections (b)(1) and (c) for the fourth, fifth, or succeeding years of participation.

(2) APPROVAL OF REQUEST.—

(A) FIRST YEAR.—The Secretary shall approve a State's request for a first year of extended participation under this subsection if the State meets the requirements of paragraph (1).

(B) SECOND YEAR.—The Secretary shall approve a State's request for a second year of extended participation under this subsection if the State—

(i) meets the requirements of paragraph (1); and

(ii) demonstrates to the Secretary's satisfaction that the State has made reasonable progress in implementing the plan described in paragraph (1)(B)(ii).

(3) DURATION.—The Secretary may not approve more than two requests from the same State for extended participation under this subsection.

(4) PAYMENT.—

(A) FISCAL YEAR 1990.—Notwithstanding any other provision of law, each State qualifying for extended participation under this subsection for fiscal year 1990 shall receive a payment under this part in an amount equal to such State's payment under this part for fiscal year 1989.

(B) FISCAL YEAR 1991 OR 1992.—Except as provided in subparagraph (C) and notwithstanding any other provision of law, each State qualifying for extended participation under this subsection for fiscal year 1991 or fiscal year 1992 shall receive a payment under this part for such fiscal years in an amount equal to the payment such State would have received under this part for fiscal year 1990 if such State had met the criteria for the fourth year of participation described in subsection (b)(1).

(C) MINIMUM PAYMENT FOR FISCAL YEAR 1991 OR 1992 FOR CERTAIN STATES.—Notwithstanding any other provision of law, each State qualifying for extended participation under this subsection for fiscal year 1991 or fiscal year 1992 shall receive a payment under this part of not less than $500,000. For purposes of the preceding sentence, the term "State" means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(5) REALLOTMENT.—

(A) FISCAL YEAR 1990.—The amount by which the allotment computed under section 684 for any State for fiscal year 1990 exceeds the amount that such State may be allotted under paragraph (4)(A) of this subsection (and, notwithstanding section 684(d), any fiscal year 1990 funds allotted to any State that such State elects not to receive) shall be reallotted, notwithstanding the percentage limitations set forth in sections[1] 684 (a) and (b), among those States satisfying the eligibility criteria of subsection (b)(1) for the fourth year of participation that have submitted an application by a date that the Secretary may establish in an amount which bears the same ratio to such amount as the amount of such State's allotment under section 684 as modified by this subsection in such fiscal year bears to the amount of all such States' allotment under section 684 as modified by this subsection in such fiscal year.

(B) FISCAL YEAR 1991 OR 1992.—The amount by which a State's allotment computed under section 684 for any State for fiscal years 1991 or 1992 exceeds the amount that such State may be allotted for such fiscal year under paragraph (4)(B) of this subsection shall be reallotted, notwithstanding the percentage limitations set forth in section 684 (a) and (b)—

(i) first, among those States satisfying the eligibility criteria of subsection (c) for the fifth year of participation that have submitted applications by a date that the Secretary may establish for each such year in an amount which bears the same ratio to such amount as the amount of such State's allotment under section 684 as modified by this subsection in such fiscal year bears to the amount of all such States' allotment under section 684 as modified by this subsection in such fiscal year, except that no such State, by operation of this clause, shall receive an increase of more than 100 percent over the amount such State would have otherwise received under section 684 for the previous fiscal year;

(ii) second, if funds remain, among those States that have—

(I) satisfied the eligibility criteria of subsection (b)(1) for the fourth year of participation;

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[1] So in law. See section 10 of Public Law 102–52 (105 Stat. 263). Probably should be "section", or "subsections (a) and (b) of section 684".

(II) qualified for extended participation under this subsection; and

(III) not received a reallotment payment under clause (i),

in an amount which bears the same ratio to such amount as the amount of such State's allotment under section 684 as modified by this subsection in such fiscal year bears to the amount of all such States' allotment under section 684 as modified by this subsection in such fiscal year, except that no State, by operation of this clause, shall receive a reallotment payment that is larger than the payment such State would otherwise have received under section 684 for such year; and

(iii) third, if funds remain, among those States satisfying the eligibility criteria of subsection (c) for the fifth year of participation that did not receive a reallotment payment under clause (ii) in an amount which bears the same ratio to such amount as the amount of such State's allotment under section 684 as modified by this subsection in such fiscal year bears to the amount of all such States' allotment under section 684 as modified by this subsection in such fiscal year.

(6) DEFINITIONS.—For the purpose of this subsection, the term "State", except as provided in paragraph (4)(C), means—

(A) each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico;

(B) each of the jurisdictions listed in section 684(a); and

(C) the Department of the Interior.

(20 U.S.C. 1475) Enacted October 8, 1986, P.L. 99–457, sec. 101(a), 100 Stat. 1147; amended November 7, 1988, P.L. 100–630, sec. 108(c), 102 Stat. 3301; amended October 30, 1990, P.L. 101–476, sec. 901(b)(165), 104 Stat. 1150; amended June 6, 1991, P.L. 102–52, sec. 10, 105 Stat. 263; amended October 7, 1991, P.L. 102–119, sec. 19(c), 105 Stat. 601.

REQUIREMENTS FOR STATEWIDE SYSTEM

SEC. 676. (a) IN GENERAL.—A statewide system of coordinated, comprehensive, multidisciplinary, interagency programs providing appropriate early intervention services to all infants and toddlers with disabilities and their families, including Indian infants and toddlers with disabilities on reservations, shall include the minimum components under subsection (b).

(b) MINIMUM COMPONENTS.—The statewide system required by subsection (a) shall include, at a minimum—

(1) a definition of the term "developmentally delayed" that will be used by the State in carrying out programs under this part,

(2) timetables for ensuring that appropriate early intervention services will be available to all infants and toddlers with disabilities in the State, including Indian infants and toddlers with disabilities on reservations, before the beginning of the fifth year of a State's participation under this part,

(3) a timely, comprehensive, multidisciplinary evaluation of the functioning of each infant and toddler with a disability in the State and the needs of the families to appropriately assist in the development of the infant or toddler with a disability,

(4) for each infant and toddler with a disability in the State, an individualized family service plan in accordance with section 677, including service coordination services in accordance with such service plan,

(5) a comprehensive child find system, consistent with part B of this Act, including a system for making referrals to service providers that includes timelines and provides for participation by primary referral sources,

(6) a public awareness program focusing on early identification of infants and toddlers with disabilities, including the preparation and dissemination by the lead agency to all primary referral sources of information materials for parents on the availability of early intervention services, and procedures for determining the extent to which primary referral sources, especially hospitals and physicians, disseminate information on the availability of early intervention services to parents of infants with disabilities,

(7) a central directory which includes early intervention services, resources, and experts available in the State and research and demonstration projects being conducted in the State,

(8) a comprehensive system of personnel development, including the training of paraprofessionals and the training of primary referral sources respecting the basic components of early intervention services available in the State, that is consistent with the comprehensive system of personnel development described in section 613(a)(3) and that may include—

(A) implementing innovative strategies and activities for the recruitment and retention of early intervention service providers,

(B) promoting the preparation of early intervention providers who are fully and appropriately qualified to provide early intervention services under this part,

(C) training personnel to work in rural areas, and

(D) training personnel to coordinate transition services for infants and toddlers with disabilities from an early intervention program under this part to a preschool program under section 619 of part B.[1]

(9) a single line of responsibility in a lead agency designated or established by the Governor for carrying out—

(A) the general administration and supervision of programs and activities receiving assistance under section 673, and the monitoring of programs and activities used by the State to carry out this part, whether or not such programs or activities are receiving assistance made available under section 673, to ensure that the State complies with this part,

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[1] So in law. See section 13(2) of Public Law 102–119 (105 Stat. 596). The period probably should be a comma.

(B) the identification and coordination of all available resources within the State from Federal, State, local and private sources,

(C) the assignment of financial responsibility in accordance with section 678(a)(2) to the appropriate agencies,

(D) the development of procedures to ensure that services are provided to infants and toddlers with disabilities and their families in a timely manner pending the resolution of any disputes among public agencies or service providers,

(E) the resolution of intra- and interagency disputes, and

(F) the entry into formal interagency agreements that define the financial responsibility of each agency for paying for early intervention services (consistent with State law) and procedures for resolving disputes and that include all additional components necessary to ensure meaningful cooperation and coordination,

(10) a policy pertaining to the contracting or making of other arrangements with service providers to provide early intervention services in the State, consistent with the provisions of this part, including the contents of the application used and the conditions of the contract or other arrangements,

(11) a procedure for securing timely reimbursement of funds used under this part in accordance with section 681(a),

(12) procedural safeguards with respect to programs under this part as required by section 680,

(13) policies and procedures relating to the establishment and maintenance of standards to ensure that personnel necessary to carry out this part are appropriately and adequately prepared and trained, including—

(A) the establishment and maintenance of standards which are consistent with any State approved or recognized certification, licensing, registration, or other comparable requirements which apply to the area in which such personnel are providing early intervention services, and

(B) to the extent such standards are not based on the highest requirements in the State applicable to a specific profession or discipline, the steps the State is taking to require the retraining or hiring of personnel that meet appropriate professional requirements in the State, and

(14) a system for compiling data on the numbers of infants and toddlers with disabilities and their families in the State in need of appropriate early intervention services (which may be based on a sampling of data), the numbers of such infants and toddlers and their families served, the types of services provided (which may be based on a sampling of data), and other information required by the Secretary.

(20 U.S.C. 1476) Enacted October 8, 1986, P.L. 99–457, sec. 101(a), 100 Stat. 1148; amended November 7, 1988, P.L. 100–630, sec. 108(d), 102 Stat. 3301; amend-

ed October 30, 1990, P.L. 101–476, sec. 901(b)(166)–(173), 104 Stat. 1150; amended October 7, 1991, P.L. 102–119, secs. 13, 19(a)(2), and 25(a)(17), 105 Stat. 596, 601, and 606.

INDIVIDUALIZED FAMILY SERVICE PLAN

SEC. 677. (a) ASSESSMENT AND PROGRAM DEVELOPMENT.—Each infant or toddler with a disability and the infant's or toddler's family shall receive—

(1) a multidisciplinary assessment of the unique strengths and needs of the infant or toddler and the identification of services appropriate to meet such needs,

(2) a family-directed assessment of the resources, priorities, and concerns of the family and the identification of the supports and services necessary to enhance the family's capacity to meet the developmental needs of their infant or toddler with a disability, and

(3) a written individualized family service plan developed by a multidisciplinary team, including the parent or guardian, as required by subsection (d).

(b) PERIODIC REVIEW.—The individualized family service plan shall be evaluated once a year and the family shall be provided a review of the plan at 6-month intervals (or more often where appropriate based on infant or toddler and family needs).

(c) PROMPTNESS AFTER ASSESSMENT.—The individualized family service plan shall be developed within a reasonable time after the assessment required by subsection (a)(1) is completed. With the parent's consent, early intervention services may commence prior to the completion of such assessment.

(d) CONTENT OF PLAN.—The individualized family service plan shall be in writing and contain—

(1) a statement of the infant's or toddler's present levels of physical development, cognitive development, communication development, social or emotional development, and adaptive development, based on acceptable objective criteria,

(2) a statement of the family's resources, priorities, and concerns relating to enhancing the development of the family's infant or toddler with a disability,

(3) a statement of the major outcomes expected to be achieved for the infant or toddler and the family, and the criteria, procedures, and timelines used to determine the degree to which progress toward achieving the outcomes is being made and whether modifications or revisions of the outcomes or services are necessary,

(4) a statement of specific early intervention services necessary to meet the unique needs of the infant or toddler and the family, including the frequency, intensity, and the method of delivering services,

(5) a statement of the natural environments in which early intervention services shall appropriately be provided,

(6) the projected dates for initiation of services and the anticipated duration of such services,

(7) the name of the case manager (hereafter in this part referred to as the "service coordinator") from the profession most immediately relevant to the infant's or toddler's or fami-

ly's needs (or who is otherwise qualified to carry out all applicable responsibilities under this part) who will be responsible for the implementation of the plan and coordination with other agencies and persons, and

(8) the steps to be taken supporting the transition of the toddler with a disability to services provided under part B of this Act to the extent such services are considered appropriate.

(e) PARENTAL CONSENT.—The contents of the individualized family service plan shall be fully explained to the parents or guardian and informed written consent from such parents or guardian shall be obtained prior to the provision of early intervention services described in such plan. If such parents or guardian do not provide such consent with respect to a particular early intervention service, then the early intervention services to which such consent is obtained shall be provided.

(20 U.S.C. 1477) Enacted October 8, 1986, P.L. 99–457, sec. 101(a), 100 Stat. 1149; amended November 7, 1988, P.L. 100–630, sec. 108(f), 102 Stat. 3302; amended October 30, 1990, P.L. 101–476, sec. 901(b)(174–(176), 104 Stat. 1150; amended October 7, 1991, P.L. 102–119, sec. 14, 105 Stat. 597.

STATE APPLICATION AND ASSURANCES

SEC. 678. (a) APPLICATION.—Any State desiring to receive a grant under section 673 for any year shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require by regulation. Such an application shall contain—

(1) a designation of the lead agency in the State that will be responsible for the administration of funds provided under section 673,

(2) a designation by the State of an individual or entity responsible for assigning financial responsibility among appropriate agencies,

(3) information demonstrating eligibility of the State under section 674,

(4) the information or assurances required to demonstrate eligibility of the State for the particular year of participation under section 675,

(5)(A) information demonstrating that the State has provided (i) public hearings, (ii) adequate notice of such hearings, and (iii) an opportunity for comment to the general public before the submission of such application and before the adoption by the State of the policies described in such application, and (B) a summary of the public comments and the State's responses,

(6) a description of the uses for which funds will be expended in accordance with this part and, for the fifth and succeeding fiscal years, a description of the services to be provided,

(7) a description of the procedure used to ensure an equitable distribution of resources made available under this part among all geographic areas within the State,

(8) a description of the policies and procedures used to ensure a smooth transition for individuals participating in the early intervention program under this part who are eligible for

participation in preschool programs under part B, including a description of how the families will be included in the transitional plans and how the lead agency under this part will notify the appropriate local educational agency or intermediate educational unit in which the child resides and convene, with the approval of the family, a conference between the lead agency, the family, and such agency or unit at least 90 days before such child is eligible for the preschool program under part B in accordance with State law, and to review the child's program options, for the period commencing on the day a child turns 3 running through the remainder of the school year, and to establish a transition plan, and

(9) such other information and assurances as the Secretary may reasonably require by regulation.

(b) STATEMENT OF ASSURANCES.—Any State desiring to receive a grant under section 673 shall file with the Secretary a statement at such time and in such manner as the Secretary may reasonably require by regulation. Such statement shall—

(1) assure that funds paid to the State under section 673 will be expended in accordance with this part,

(2) contain assurances that the State will comply with the requirements of section 681,

(3) provide satisfactory assurance that the control of funds provided under section 673, and title to property derived therefrom, shall be in a public agency for the uses and purposes provided in this part and that a public agency will administer such funds and property,

(4) provide for (A) making such reports in such form and containing such information as the Secretary may require to carry out the Secretary's functions under this part, and (B) keeping such records and affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports and proper disbursement of Federal funds under this part,

(5) provide satisfactory assurance that Federal funds made available under section 673 (A) will not be commingled with State funds, and (B) will be so used as to supplement and increase the level of State and local funds expended for infants and toddlers with disabilities and their families and in no case to supplant such State and local funds,

(6) provide satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under section 673 to the State,

(7) beginning in fiscal year 1992, provide satisfactory assurance that policies and practices have been adopted to ensure meaningful involvement of traditionally underserved groups, including minority, low-income, and rural families, in the planning and implementation of all the requirements of this part and to ensure that such families have access to culturally competent services within their local areas, and

(8) such other information and assurances as the Secretary may reasonably require by regulation.

(c) Approval of Application and Assurances Required.—No State may receive a grant under section 673 unless the Secretary has approved the application and statement of assurances of that State. The Secretary shall not disapprove such an application or statement of assurances unless the Secretary determines, after notice and opportunity for a hearing, that the application or statement of assurances fails to comply with the requirements of this section.

(20 U.S.C. 1478) Enacted October 8, 1986, P.L. 99–457, sec. 101(a), 100 Stat. 1150; amended November 7, 1988, P.L. 100–630, sec. 108(g), 102 Stat. 3302; amended October 30, 1990, sec. 901(b)(177), P.L. 101–476, 104 Stat. 1150; amended October 7, 1991, P.L. 102–119, sec. 15, 105 Stat. 597.

USES OF FUNDS

Sec. 679. In addition to using funds provided under section 673 to plan, develop, and implement the statewide system required by section 676, a State may use such funds—

(1) for direct services for infants and toddlers with disabilities and their families that are not otherwise provided from other public or private sources,

(2) to expand and improve on services for infants and toddlers with disabilities and their families that are otherwise available, and

(3) to provide a free appropriate public education, in accordance with part B, to children with disabilities from their third birthday to the beginning of the following school year.

(20 U.S.C. 1479) Enacted October 8, 1986, P.L. 99–457, sec. 101(a), 100 Stat. 1151; amended November 7, 1988, P.L. 100–630, sec. 108(h), 102 Stat. 3302; amended October 30, 1990, P.L. 101–476, sec. 901(b)(178), 104 Stat. 1150; amended October 7, 1991, P.L. 102–119, sec. 16, 105 Stat. 598.

PROCEDURAL SAFEGUARDS

Sec. 680. The procedural safeguards required to be included in a statewide system under section 676(b)(12) shall provide, at a minimum, the following:

(1) The timely administrative resolution of complaints by parents. Any party aggrieved by the findings and decision regarding an administrative complaint shall have the right to bring a civil action with respect to the complaint, which action may be brought in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy. In any action brought under this paragraph, the court shall receive the records of the administrative proceedings, shall hear additional evidence at the request of a party, and, basing its decision on the preponderance of the evidence, shall grant such relief as the court determines is appropriate.

(2) The right to confidentiality of personally identifiable information, including the right of parents or guardians to written notice of and written consent to the exchange of such information among agencies consistent with Federal and State law.

(3) The right of the parents or guardian to determine whether they, their infant or toddler, or other family members will accept or decline any early intervention service under this

part in accordance with State law without jeopardizing other early intervention services under this part.

(4) The opportunity for parents or a guardian to examine records relating to assessment, screening, eligibility determinations, and the development and implementation of the individualized family service plan.

(5) Procedures to protect the rights of the infant or toddler with a disability whenever the parents or guardian of the child are not known or unavailable or the child is a ward of the State, including the assignment of an individual (who shall not be an employee of the State agency providing services) to act as a surrogate for the parents or guardian.

(6) Written prior notice to the parents or guardian of the infant or toddler with a disability whenever the State agency or service provider proposes to initiate or change or refuses to initiate or change the identification, evaluation, placement, or the provision of appropriate early intervention services to the infant or toddler with a disability.

(7) Procedures designed to assure that the notice required by paragraph (6) fully informs the parents or guardian, in the parents' or guardian's native language, unless it clearly is not feasible to do so, of all procedures available pursuant to this section.

(8) During the pendency of any proceeding or action involving a complaint, unless the State agency and the parents or guardian otherwise agree, the child shall continue to receive the appropriate early intervention services currently being provided or, if applying for initial services, shall receive the services not in dispute.

(20 U.S.C. 1480) Enacted October 8, 1986, P.L. 99–457, sec. 101(a), 100 Stat. 1152; amended November 7, 1988, P.L. 100–630, sec. 108(i), 102 Stat. 3302; amended October 30, 1990, P.L. 101–476, sec. 901(b) (179), (180), 104 Stat. 1150; amended October 7, 1991, P.L. 102–119, sec. 17, 105 Stat. 598.

PAYOR OF LAST RESORT

Sec. 681. (a) Nonsubstitution.—Funds provided under section 673 may not be used to satisfy a financial commitment for services which would have been paid for from another public or private source but for the enactment of this part, except that whenever considered necessary to prevent a delay in the receipt of appropriate early intervention services by the infant or toddler or family in a timely fashion, funds provided under section 673 may be used to pay the provider of services pending reimbursement from the agency which has ultimate responsibility for the payment.

(b) Reduction of Other Benefits.—Nothing in this part shall be construed to permit the State to reduce medical or other assistance available or to alter eligibility under title V of the Social Security Act (relating to maternal and child health) or title XIX of the Social Security Act (relating to medicaid for infants or toddlers with disabilities) within the State.

(20 U.S.C. 1481) Enacted October 8, 1986, P.L. 99–457, sec. 101(a), 100 Stat. 1152; amended November 7, 1988, P.L. 100–630, sec. 108(j), 102 Stat. 3302; amended October 30, 1990, P.L. 101–476, 104 Stat. 1150.

STATE INTERAGENCY COORDINATING COUNCIL

SEC. 682. (a) ESTABLISHMENT.—(1) Any State which desires to receive financial assistance under section 673 shall establish a State Interagency Coordinating Council composed of at least 15 members but not more than 25 members, unless the State provides sufficient justification for a greater number of members in the application submitted pursuant to section 678.

(2) The Council shall be appointed by the Governor. In making appointments to the Council, the Governor shall ensure that the membership of the Council reasonably represents the population of the State.

(3) The Governor shall designate a member of the Council to serve as the chairperson of the Council, or shall require the Council to so designate such a member. Any member of the Council who is a representative of the lead agency designated under section 676(b)(9) may not serve as the chairperson of the Council.

(b) COMPOSITION.—(1) The Council shall be composed as follows:

(A) At least 20 percent of the members shall be parents, including minority parents, of infants or toddlers with disabilities or children with disabilities aged 12 or younger, with knowledge of, or experience with, programs for infants and toddlers with disabilities. At least one such member shall be a parent of an infant or toddler with a disability or a child with a disability aged 6 or younger.

(B) At least 20 percent of the members shall be public or private providers of early intervention services.

(C) At least one member shall be from the State legislature.

(D) At least one member shall be involved in personnel preparation.

(E) At least one member shall be from each of the State agencies involved in the provision of, or payment for, early intervention services to infants and toddlers with disabilities and their families and shall have sufficient authority to engage in policy planning and implementation on behalf of such agencies.

(F) At least one member shall be from the State educational agency responsible for preschool services to children with disabilities and shall have sufficient authority to engage in policy planning and implementation on behalf of such agency.

(G) At least one member shall be from the agency responsible for the State governance of insurance, especially in the area of health insurance.

(2) The Council may include other members selected by the Governor, including a representative from the Bureau of Indian Affairs, or where there is no BIA operated or funded school, from the Indian Health Service or the tribe/tribal council.

(c) MEETINGS.—The Council shall meet at least quarterly and in such places as it deems necessary. The meetings shall be publicly announced, and, to the extent appropriate, open and accessible to the general public.

(d) MANAGEMENT AUTHORITY.—Subject to the approval of the Governor, the Council may prepare and approve a budget using funds under this part to conduct hearings and forums, to reimburse members of the Council for reasonable and necessary expenses for attending Council meetings and performing Council duties (including child care for parent representatives), to pay compensation to a member of the Council if such member is not employed or must forfeit wages from other employment when performing official Council business, to hire staff, and to obtain the services of such professional, technical, and clerical personnel as may be necessary to carry out its functions under this part.

(e) FUNCTIONS OF COUNCIL.—(1) The Council shall—

(A) advise and assist the lead agency designated or established under section 676(b)(9) in the performance of the responsibilities set out in such section, particularly the identification of the sources of fiscal and other support for services for early intervention programs, assignment of financial responsibility to the appropriate agency, and the promotion of the interagency agreements,

(B) advise and assist the lead agency in the preparation of applications and amendments thereto,

(C) advise and assist the State educational agency regarding the transition of toddlers with disabilities to services provided under part B, to the extent such services are appropriate, and

(D) prepare and submit an annual report to the Governor and to the Secretary on the status of early intervention programs for infants and toddlers with disabilities and their families operated within the State.

(2) The Council may advise and assist the lead agency and the State educational agency regarding the provision of appropriate services for children aged birth to 5, inclusive.

(f) CONFLICT OF INTEREST.—No member of the Council shall cast a vote on any matter which would provide direct financial benefit to that member or otherwise give the appearance of a conflict of interest under State law.

(g) USE OF EXISTING COUNCILS.—To the extent that a State has established a Council before September 1, 1986, that is comparable to the Council described in this section, such Council shall be considered to be in compliance with this section. Within 4 years after the date the State accepts funds under section 673, such State shall establish a council that complies in full with this section.

(20 U.S.C. 1482) Enacted October 8, 1986, P.L. 99–457, sec. 101(a), 100 Stat. 1153; amended November 7, 1988, P.L. 100–630, sec. 108(k), 102 Stat. 3302; amended October 30, 1990, P.L. 101–476, sec. 901(b)(182), 104 Stat. 1150; amended October 7, 1991, P.L. 102–119, secs. 18 and 25(a)(18), 105 Stat. 599 and 606.

FEDERAL ADMINISTRATION

SEC. 683. Sections 616, 617, and 620 shall, to the extent not inconsistent with this part, apply to the program authorized by this part, except that—

(1) any reference to a State educational agency shall be deemed to be a reference to the State agency established or designated under section 676(b)(9),

(2) any reference to the education of children with disabilities and the education of all children with disabilities and the provision of free public education to all children with disabilities shall be deemed to be a reference to the provision of services to infants and toddlers with disabilities in accordance with this part, and

(3) any reference to local educational agencies and intermediate educational agencies shall be deemed to be a reference to local service providers under this part.

(20 U.S.C. 1483) Enacted October 8, 1986, P.L. 99–457, sec. 101(a), 100 Stat. 1154; amended October 30, 1990, P.L. 101–476, sec. 901(b) (183), (184), 104 Stat. 1151.

ALLOCATION OF FUNDS

SEC. 684. (a) From the sums appropriated to carry out this part for any fiscal year, the Secretary may reserve 1 percent for payments to Guam, American Samoa, the Virgin Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, the Republic of Palau, and the Commonwealth of the Northern Mariana Islands in accordance with their respective needs.

(b)(1) The Secretary shall, subject to this subsection, make payments to the Secretary of the Interior to be distributed to tribes or tribal organizations (as defined under section 4 of the Indian Self-Determination and Education Assistance Act) or consortium of the above entities for the coordination of assistance in the provision of early intervention services by the States to infants and toddlers with disabilities and their families on reservations served by elementary and secondary schools for Indian children operated or funded by the Department of the Interior. The amount of such payment for any fiscal year shall be 1.25 percent of the aggregate of the amount available to all States under this part for that fiscal year.

(2) The Secretary of the Interior shall distribute the total amount of the 1.25 percent under paragraph (1) in the following manner:

(A) For the first fiscal year, each tribe or tribal organization shall receive an amount proportionate to the amount of weighted student units for special education programs for BIA operated or funded schools serving such reservation generated under the formula established under section 1128 of the Education Amendments of 1978, divided by the total number of such students in all BIA operated or funded schools.

(B) For each fiscal year thereafter, each tribe or tribal organization shall receive an amount based on the number of infants and toddlers residing on the reservation as determined annually divided by the total of such children served by all tribes or tribal organizations.

(3) To receive a payment under this paragraph, the tribe or tribal organization shall submit such figures to the Secretary of the Interior as are needed to determine the amounts to be allocated under paragraph (2).

(4) The funds received by a tribe or tribal organization shall be used to assist States in child find, screening, and other procedures for the early identification of Indian children aged 0-2, inclusive,

and for parent training. Such funds may also be used to provide early intervention services in accordance with this part. These activities may be carried out directly or through contracts or cooperative agreements with the BIA, local educational agencies, and other public or private nonprofit organizations. The tribe and tribal organization is encouraged to involve Indian parents in the development and implementation of these activities. The above entities shall, as appropriate, make referrals to local, State, or Federal entities for the provision of services or further diagnosis.

(5) To be eligible to receive a grant pursuant to paragraph (2), the tribe or tribal organization shall make a biennial report to the Secretary of the Interior of activities undertaken under this subsection, including the number of contracts and cooperative agreements entered into, the number of children contacted and receiving services for each year, and the estimated number of children needing services during the 2 years following the one in which the report is made. The Secretary of the Interior shall include a summary of this information on a biennial basis to the Secretary of Education along with such other information as required under section 611(f)(3)(D) of this Act. The Secretary of Education may require any additional information from the Secretary of the Interior.

(6) None of the funds under this subsection can be used by the Secretary of the Interior for administrative purposes, including child count, and the provision of technical assistance.

(c)(1) For each of the fiscal years 1987 through 1994 from the funds remaining after the reservation and payments under subsections (a) and (b), the Secretary shall allot to each State an amount which bears the same ratio to the amount of such remainder as the number of infants and toddlers in the State bears to the number of infants and toddlers in all States, except that no State shall receive less than 0.5 percent of such remainder, or $500,000, whichever is greater.

(2) For the purpose of paragraph (1)—

(A) the terms "infants" and "toddlers" mean children from birth to age 2, inclusive, and

(B) the term "State" does not include the jurisdictions described in subsection (a).

(d) If any State elects not to receive its allotment under subsection (c)(1), the Secretary shall reallot, among the remaining States, amounts from such State in accordance with such subsection.

(20 U.S.C. 1484) Enacted October 8, 1986, P.L. 99–457, sec. 101(a), 100 Stat. 1154; amended October 30, 1990, P.L. 101–476, sec. 901(b)(185), 104 Stat. 1151; amended October 7, 1991, P.L. 102–119, sec. 19(a)(1) and (b), 105 Stat. 600 and 601.

FEDERAL INTERAGENCY COORDINATING COUNCIL

SEC. 685. (a) ESTABLISHMENT AND PURPOSE.—

(1) IN GENERAL.—The Secretary shall establish a Federal Interagency Coordinating Council in order to—

(A) minimize duplication of programs and activities relating to early intervention services for infants and toddlers with disabilities and their families, and preschool services for children with disabilities, across Federal, State, and local agencies;

(B) ensure the effective coordination of Federal early intervention and preschool programs and policies across Federal agencies;

(C) coordinate the provision of Federal technical assistance and support activities to States;

(D) identify gaps in Federal agency programs and services; and

(E) identify barriers to Federal interagency cooperation.

(2) APPOINTMENTS.—The council established under paragraph (1) (hereafter in this section referred to as the "Council") and the chairperson of the Council shall be appointed by the Secretary in consultation with other appropriate Federal agencies. In making the appointments, the Secretary shall ensure that each member has sufficient authority to engage in policy planning and implementation on behalf of the department, agency, or program that such member represents.

(b) COMPOSITION.—The Council shall be composed of—

(1) a representative of the Office of Special Education Programs;

(2) a representative of the National Institute on Disability and Rehabilitation Research;

(3) a representative of the Maternal and Child Health Services Block Grant Program;

(4) a representative of programs assisted under the Developmental Disabilities Assistance and Bill of Rights Act;

(5) a representative of the Health Care Financing Administration;

(6) a representative of the Division of Birth Defects and Developmental Disabilities of the Centers for Disease Control;

(7) a representative of the Social Security Administration;

(8) a representative of the Special Supplemental Food Program for Women, Infants and Children of the Department of Agriculture;

(9) a representative of the National Institute of Mental Health;

(10) a representative of the National Institute of Child Health and Human Development;

(11) a representative of the Bureau of Indian Affairs of the Department of the Interior;

(12) a representative of the Indian Health Service;

(13) a representative of the Surgeon General;

(14) a representative of the Department of Defense;

(15) a representative of the Administration for Children and Families;

(16) a representative of the Alcohol, Drug Abuse and Mental Health Administration[1];

(17) a representative of the Pediatric Aids Health Care Demonstration Program in the Public Health Service;

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[1] Section 161 of Public Law 102–321 (106 Stat. 375) provides that any references to the Alcohol, Drug Abuse and Mental Health Administration shall be deemed to refer to the Substance Abuse and Mental Health Services Administration.

(18) at least 3 parents of children with disabilities age 12 or under, of whom at least one must have a child with a disability under the age of 6;

(19) at least 2 representatives of State lead agencies for early intervention services to infants and toddlers, one of which must be a representative of a State educational agency and the other a representative of a noneducational agency;

(20) other members representing appropriate agencies involved in the provision of, or payment for, early intervention services and special education and related services to infants and toddlers with disabilities and their families and preschool children with disabilities; and

(21) other persons appointed by the Secretary.

(c) MEETINGS.—The Council shall meet at least quarterly and in such places as the Council deems necessary. The meetings shall be publicly announced, and, to the extent appropriate, open and accessible to the general public.

(d) FUNCTIONS OF THE COUNCIL.—The Council shall—

(1) advise and assist the Secretary in the performance of the Secretary's responsibilities described in this part;

(2) conduct policy analyses of Federal programs related to the provision of early intervention services and special educational and related services to infants and toddlers with disabilities and their families, and preschool children with disabilities, in order to determine areas of conflict, overlap, duplication, or inappropriate omission;

(3) identify strategies to address issues described in paragraph (2);

(4) develop and recommend joint policy memoranda concerning effective interagency collaboration, including modifications to regulations, and the elimination of barriers to interagency programs and activities;

(5) coordinate technical assistance and disseminate information on best practices, effective program coordination strategies, and recommendations for improved early intervention programming for infants and toddlers with disabilities and their families and preschool children with disabilities; and

(6) facilitate activities in support of States' interagency coordination efforts.

(e) CONFLICT OF INTEREST.—No member of the Council shall cast a vote on any matter that would provide direct financial benefit to that member or otherwise give the appearance of a conflict of interest under Federal law.

(20 U.S.C. 1484a) Enacted October 7, 1991, P.L. 102–119, sec. 21(2), 105 Stat. 602.

AUTHORIZATION OF APPROPRIATIONS

SEC. 686. There are authorized to be appropriated to carry out this part $220,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 and 1994.

(20 U.S.C. 1485) Enacted October 8, 1986, P.L. 99–457, sec. 101(a), 100 Stat. 1155; amended October 7, 1991, P.L. 102–119, secs. 20 and 21(1), 105 Stat. 602.

HELEN KELLER NATIONAL CENTER ACT

Helen Keller National Center Act

* * * * * * *

CONGRESSIONAL FINDINGS

SEC. 202. The Congress finds that—

(1) deaf-blindness is among the most severe of all forms of disabilities, and there is a great and continuing need for services and training to help individuals who are deaf-blind attain the highest possible level of development;

(2) due to the rubella epidemic of the 1960's, the rapidly increasing number of older persons many of whom are experiencing significant losses of both vision and hearing, and recent advances in medical technology that have sustained the lives of many severely disabled individuals, including individuals who are deaf-blind, who might not otherwise have survived, the need for services for individuals who are deaf-blind is even more pressing now than in the past;

(3) helping individuals who are deaf-blind to become self-sufficient, independent, and employable by providing the services and training necessary to accomplish that end will benefit the Nation, both economically and socially;

(4) the Helen Keller National Center for Youths and Adults who are Deaf-Blind is a vital national resource for meeting the needs of individuals who are deaf-blind and no State currently has the facilities or personnel to meet such needs;

(5) the Federal Government has made a substantial investment in capital, equipment, and operating funds for such Center since it was established; and

(6) it is in the national interest to continue to provide support for the Center, and it is a proper function of the Federal Government to be the primary source of such support.

(29 U.S.C. 1901) Enacted February 22, 1984, P.L. 98–221, sec. 202, 98 Stat. 32; amended October 29, 1992, P.L. 102–569, secs. 901, 908(a), (c)(1), 106 Stat. 4482, 4485, 4486.

AUTHORIZATION FOR THE CONTINUED OPERATION OF THE HELEN KELLER NATIONAL CENTER FOR YOUTHS AND ADULTS WHO ARE DEAF-BLIND; REPEAL OF PRIOR AUTHORIZATION

SEC. 203. (a) The Secretary of Education shall continue to administer and support the Helen Keller National Center for Youths and Adults who are Deaf-Blind in the same manner as such Center was administered prior to the date of enactment of this Act, to the extent such manner of administration is not inconsistent with any purpose described in subsection (b) or any other requirement of this title.

(b) The purposes of the Center are to—

(1) provide specialized intensive services, or any other services, at the Center or anywhere else in the United States, which are necessary to encourage the maximum personal development of any individual who is deaf-blind;

(2) train family members of individuals who are deaf-blind at the Center or anywhere else in the United States, in order to assist family members in providing and obtaining appropriate services for the individual who is deaf-blind;

(3) train professionals and allied personnel at the Center or anywhere else in the United States to provide services to individuals who are deaf-blind; and

(4) conduct applied research, development programs, and demonstrations with respect to communication techniques, teaching methods, aids and devices, and delivery of services.

(29 U.S.C. 1902) Enacted February 22, 1984, P.L. 98–221, sec. 203, 98 Stat. 33; amended October 29, 1992, P.L. 102–569, secs. 902, 908(a), (b), (c)(1), and (2) 106 Stat. 4482, 4485, 4486.

AUDIT; MONITORING AND EVALUATION

SEC. 204. (a) The books and accounts of the Center shall be audited annually by an independent auditor in the manner prescribed by the Secretary and a report on each such audit shall be submitted by the auditor to the Secretary within 15 days following the completion of the audit and acceptance of the audit by the Center.

(b)(1) The Secretary shall establish procedures for monitoring, on a regular basis, the services performed and the training conducted by the Center.

(2) The Secretary shall, in addition to the regular monitoring required under paragraph (1), conduct an evaluation of the operation of the Center at the end of each fiscal year. A written report of such evaluation shall be submitted to the President, the Clerk of the House of Representatives, and the Secretary of the Senate within one hundred and eighty days after the end of the fiscal year for which such evaluation was conducted. The first such report shall be submitted for fiscal year 1983.

(29 U.S.C. 1903) Enacted February 22, 1984, P.L. 98–221, sec. 204, 98 Stat. 33; amended October 29, 1992, P.L. 102–569, sec. 903, 106 Stat. 4482.

AUTHORIZATION OF APPROPRIATIONS

SEC. 205. (a) There are authorized to be appropriated to carry out the provisions of this title such sums as may be necessary for each of the fiscal years 1993 through 1997. Such sums shall remain available until expended.

(b) Any appropriation Act containing any appropriation authorized by subsection (a) shall contain a statement of the specific amount being made available to the Center.

(29 U.S.C. 1904) Enacted February 22, 1984, P.L. 98–221, sec. 205, 98 Stat. 33; amended October 21, 1986, P.L. 99–506, sec. 901, 101 Stat. 1840–1841; amended November 7, 1988, P.L. 100–630, sec. 501, 102 Stat. 3317; amended June 6, 1991, P.L. 102–52, sec. 9(a), 105 Stat. 263; amended October 29, 1992, P.L. 102–569, sec. 904, 106 Stat. 4482.

DEFINITIONS

SEC. 206. For purposes of this title—

(1) the terms "Helen Keller National Center for Youths and Adults who are Deaf-Blind" and "Center" mean the Helen Keller National Center for Youths and Adults who are Deaf-Blind, and its affiliated network, operated pursuant to this title;

(2) the term "individual who is deaf-blind" means any individual—

(A)(i) who has a central visual acuity of 20/200 or less in the better eye with corrective lenses, or a field defect such that the peripheral diameter of visual field subtends an angular distance no greater than 20 degrees, or a progressive visual loss having a prognosis leading to one or both these conditions;

(ii) who has a chronic hearing impairment so severe that most speech cannot be understood with optimum amplification, or a progressive hearing loss having a prognosis leading to this condition; and

(iii) for whom the combination of impairments described in clauses (i) and (ii) cause extreme difficulty in attaining independence in daily life activities, achieving psychosocial adjustment, or obtaining a vocation;

(B) who despite the inability to be measured accurately for hearing and vision loss due to cognitive or behavioral constraints, or both, can be determined through functional and performance assessment to have severe hearing and visual disabilities that cause extreme difficulty in attaining independence in daily life activities, achieving psychosocial adjustment, or obtaining vocational objectives; or

(C) meets such other requirements as the Secretary may prescribe by regulation; and

(3) the term "Secretary" means the Secretary of Education.

(29 U.S.C. 1905) Enacted February 22, 1984, P.L. 98–221, sec. 206, 98 Stat. 34; amended October 29, 1992, P.L. 102–569, secs. 905, 908(c)(1), 106 Stat. 4482, 4486.

CONSTRUCTION OF ACT; EFFECT ON AGREEMENTS

SEC. 207. This title shall not be construed as modifying or affecting any agreement between the Department of Education or any other department or agency of the United States and the Helen Keller Services for the Blind, Incorporated, or any successor to or assignee of such corporation, with respect to the Center.

(29 U.S.C. 1906) Enacted February 22, 1984, P.L. 98–221, sec. 207, 98 Stat. 34; amended October 29, 1992, P.L. 102–569, sec. 906, 106 Stat. 4483.

SEC. 208. HELEN KELLER NATIONAL CENTER FEDERAL ENDOWMENT PROGRAM.

(a) ESTABLISHMENT.—The Secretary and the Board of Directors of the Helen Keller National Center are authorized to establish the Helen Keller National Center Federal Endowment Fund (hereafter in this section referred to as the "Endowment Fund") in accordance with the provisions of this section, to promote the financial independence of the Helen Keller National Center. The Secretary and the Board may enter into such agreements as may be necessary to carry out the purposes of this section.

(b) FEDERAL PAYMENTS.—

(1) IN GENERAL.—The Secretary shall make payments to the Endowment Fund from amounts appropriated pursuant to subsection (h), consistent with the provisions of this section.

(2) AMOUNT OF PAYMENT.—Subject to the availability of appropriations, the Secretary shall make payments to the Endowment Fund in amounts equal to sums contributed to the Endowment Fund from non-Federal sources (excluding transfers from other endowment funds of the Center).

(c) INVESTMENTS.—

(1) IN GENERAL.—The Center, in investing the Endowment Fund corpus and income, shall exercise the judgment and care, under the prevailing circumstances, which a person of prudence, discretion, and intelligence would exercise in the management of that person's own business affairs.

(2) LIMITATIONS.—

(A) FEDERALLY INSURED INVESTMENTS AND OTHER INVESTMENTS.—The Endowment Fund corpus and income shall be invested in federally insured bank savings accounts or comparable interest bearing accounts, certificates of deposit, money market funds, mutual funds, obligations of the United States, or other low-risk instruments and securities in which a regulated insurance company may invest under the laws of the State of New York.

(B) REAL ESTATE.—The Endowment Fund corpus and income may not be invested in real estate.

(C) CONFLICT OF INTEREST.—The Endowment Fund corpus or income may not be invested in instruments or securities issued by an organization in which an executive officer is a controlling shareholder, director, or owner within the meaning of Federal securities laws and other applicable laws.

(D) ENCUMBRANCES.—The Center may not assign, hypothecate, encumber, or create a lien on the Endowment Fund corpus without specific written authorization of the Secretary.

(d) WITHDRAWALS AND EXPENDITURES.—

(1) IN GENERAL.—For a 20-year period following the receipt of a payment under this section, the Center shall not withdraw or expend the Federal payment or matching contribution made to the Endowment Fund corpus. On the expiration of such period, the Center may use the Endowment Fund corpus plus any of the Endowment Fund income for any purpose that benefits individuals who are deaf-blind.

(2) OPERATIONAL AND COMMERCIAL EXPENSES.—

(A) IN GENERAL.—The Helen Keller National Center may withdraw or expend the Endowment Fund income for any expenses necessary for the operation of the Center, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and client services programs, technical assistance, and research.

(B) LIMITATION.—The Center may not withdraw or expend the Endowment Fund income for any commercial purpose.

(3) LIMITATIONS AND WAIVER OF LIMITATIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Center shall not withdraw or expend more than 50 percent of the total aggregate Endowment Fund income earned prior to the time of withdrawal or expenditure.

(B) EXCEPTION.—The Secretary may permit the Center to withdraw or expend more than 50 percent of its total aggregate endowment income where the Center demonstrates to the Secretary's satisfaction that such withdrawal or expenditure is necessary because of—

(i) a financial emergency, such as a pending insolvency or temporary liquidity problem;

(ii) a life-threatening situation occasioned by a natural disaster or arson; or

(iii) another unusual occurrence or exigent circumstance.

(e) REPORTING REQUIREMENTS.—

(1) FINANCIAL RECORDS.—The Helen Keller National Center shall keep accurate financial records relating to the operation of the Endowment Fund.

(2) AUDIT AND REPORT.—

(A) AUDIT.—The Center shall arrange for the conduct of an annual financial and compliance audit of the Endowment Fund in the manner prescribed by the Secretary pursuant to section 204(a) (29 U.S.C. 1903(a)).

(B) REPORT.—The Center shall submit a copy of the report on the audit required under subparagraph (A) to the Secretary within 15 days after completion of the audit and acceptance of the audit by the Center.

(3) ANNUAL REPORT.—Not later than 60 days after the end of each fiscal year, the Center shall provide to the Secretary an annual report on the uses of funds provided by the Federal endowment program authorized under this section. Such report shall contain such information, and be in such form as the Secretary may require.

(f) RECOVERY OF PAYMENTS.—After notice and an opportunity for a hearing, the Secretary is authorized to recover any Federal payments made under this section if the Helen Keller National Center—

(1) makes a withdrawal or expenditure from the Endowment Fund corpus or income which is not consistent with the provisions of this section;

(2) fails to comply with the investment standards and limitations under this section; or

(3) fails to account properly to the Secretary concerning the investment of or expenditures from the Endowment Fund corpus or income.

(g) DEFINITIONS.—For the purposes of this section:

(1) ENDOWMENT FUND.—The term "endowment fund" means a fund, or a tax-exempt foundation, established and

maintained by the Helen Keller National Center for the purpose of generating income for the support of the Center.

(2) ENDOWMENT FUND CORPUS.—The term "Endowment Fund corpus" means an amount equal to the Federal payments made to the Endowment Fund and amounts contributed to the Endowment Fund from non-Federal sources.

(3) ENDOWMENT FUND INCOME.—The term "Endowment Fund income" means an amount equal to the total market value of the Endowment Fund minus the Endowment Fund corpus.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of the fiscal years 1993 through 1997. Such sums shall remain available until expended.

(29 U.S.C. 1907) Enacted October 29, 1992, P.L. 102-569, sec. 907, 106 Stat. 4483.

REHABILITATION ACT OF 1973

Rehabilitation Act of 1973

AN ACT To replace the Vocational Rehabilitation Act, to extend and revise the authorization of grants to States for vocational rehabilitation services, with special emphasis on services to individuals with the most severe disabilities, to expand special Federal responsibilities and research and training programs with respect to individuals with disabilities, to establish special responsibilities in the Secretary of Health, Education, and Welfare for coordination of all programs with respect to individuals with disabilities within the Department of Health, Education, and Welfare, and for other purposes.[1]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, with the following table of contents, may be cited as the "Rehabilitation Act of 1973":

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Sec. 109. Training of employers with respect to Americans with Disabilities Act of 1990.

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[1] The title of the Act, as shown above, reflects the amendments described in section 102(p)(1) of Public Law 102-569 (106 Stat. 4355). Note, however, that there is a legal question as to whether the title of an Act can be amended, as the title precedes the enacting clause and therefore is arguably not law. See Sutherland Statutory Construction §§19.05, 47.04, 47.05 (4th ed. 1984, 1985); R. Dickerson, The Fundamentals of Legal Drafting §13.2 (2nd ed. 1986).

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(29 U.S.C. 701, note)

FINDINGS; PURPOSE; POLICY

SEC. 2. (a) FINDINGS.—Congress finds that—

(1) millions of Americans have one or more physical or mental disabilities and the number of Americans with such disabilities is increasing;

(2) individuals with disabilities constitute one of the most disadvantaged groups in society;

(3) disability is a natural part of the human experience and in no way diminishes the right of individuals to—

(A) live independently;

(B) enjoy self-determination;

(C) make choices;

(D) contribute to society;

(E) pursue meaningful careers; and

(F) enjoy full inclusion and integration in the economic, political, social, cultural, and educational mainstream of American society;

(4) increased employment of individuals with disabilities can be achieved through the provision of individualized training, independent living services, educational and support services, and meaningful opportunities for employment in integrated work settings through the provision of reasonable accommodations;

(5) individuals with disabilities continually encounter various forms of discrimination in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and public services; and

(6) the goals of the Nation properly include the goal of providing individuals with disabilities with the tools necessary to—

(A) make informed choices and decisions; and

(B) achieve equality of opportunity, full inclusion and integration in society, employment, independent living, and economic and social self-sufficiency, for such individuals.

(b) PURPOSE.—The purposes of this Act are—

(1) to empower individuals with disabilities to maximize employment, economic self-sufficiency, independence, and inclusion and integration into society, through—

(A) comprehensive and coordinated state-of-the-art programs of vocational rehabilitation;

(B) independent living centers and services;

(C) research;

(D) training;

(E) demonstration projects; and

(F) the guarantee of equal opportunity; and

(2) to ensure that the Federal Government plays a leadership role in promoting the employment of individuals with disabilities, especially individuals with severe disabilities, and in assisting States and providers of services in fulfilling the aspirations of such individuals with disabilities for meaningful and gainful employment and independent living.

(c) POLICY.—It is the policy of the United States that all programs, projects, and activities receiving assistance under this Act shall be carried out in a manner consistent with the principles of—

(1) respect for individual dignity, personal responsibility, self-determination, and pursuit of meaningful careers, based on informed choice, of individuals with disabilities;

(2) respect for the privacy, rights, and equal access (including the use of accessible formats), of the individuals;

(3) inclusion, integration, and full participation of the individuals;

(4) support for the involvement of a parent, a family member, a guardian, an advocate, or an authorized representative if an individual with a disability requests, desires, or needs such support; and

(5) support for individual and systemic advocacy and community involvement.

(29 U.S.C. 701)

REHABILITATION SERVICES ADMINISTRATION

SEC. 3. (a) There is established in the Office of the Secretary a Rehabilitation Services Administration which shall be headed by a Commissioner (hereinafter in this Act referred to as the "Commissioner") appointed by the President by and with the advice and consent of the Senate. Except for titles IV and V and part A of title VI and as otherwise specifically provided in this Act, such Administration shall be the principal agency, and the Commissioner shall be the principal officer, of such Department for carrying out this Act. The Commissioner shall be an individual with substantial experience in rehabilitation and in rehabilitation program management. In the performance of the functions of the office, the Commissioner shall be directly responsible to the Secretary or to the Under Secretary or an appropriate Assistant Secretary of such Department, as designated by the Secretary. The functions of the Commissioner shall not be delegated to any officer not directly responsible, both with respect to program operation and administration, to the Commissioner. Any reference in this Act to duties to be carried out by the Commissioner shall be considered to be a reference to duties to be carried out by the Secretary acting through the Commissioner. In carrying out any of the functions of the office under this Act, the Commissioner shall be guided by general policies of the National Council on Disability established under title IV of this Act.

(b) The Secretary shall take whatever action is necessary to insure that funds appropriated pursuant to this Act, as well as unexpended appropriations for carrying out the Vocational Rehabilitation Act (29 U.S.C. 31–42), are expended only for the programs, personnel, and administration of programs carried out under this Act.

(c) The Secretary shall take such action as necessary to ensure that—

(1) the staffing of the Rehabilitation Services Administration shall be in sufficient numbers to meet program needs and at levels which will attract and maintain the most qualified personnel; and

(2) such staff includes individuals who have training and experience in the provision of rehabilitation services and that staff competencies meet professional standards.

(29 U.S.C. 702)

ADVANCE FUNDING

SEC. 4. (a) For the purpose of affording adequate notice of funding available under this Act, appropriations under this Act are authorized to be included in the appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation.

(b) In order to effect a transition to the advance funding method of timing appropriation action, the authority provided by subsection (a) of this section shall apply notwithstanding that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.

(29 U.S.C. 703)

JOINT FUNDING

SEC. 5. Pursuant to regulations prescribed by the President, and to the extent consistent with the other provisions of this Act, where funds are provided for a single project by more than one Federal agency to an agency or organization assisted under this Act, the Federal agency principally involved may be designated to act for all in administering the funds provided, and, in such cases, a single non-Federal share requirement may be established according to the proportion of funds advanced by each agency. When the principal agency involved is the Rehabilitation Services Administration, it may waive any grant or contract requirement (as defined by such regulations) under or pursuant to any law other than this Act, which requirement is inconsistent with the similar requirements of the administering agency under or pursuant to this Act.

(29 U.S.C. 704)

CONSOLIDATED REHABILITATION PLAN

SEC. 6. (a) In order to secure increased flexibility to respond to the varying needs and local conditions within the State, and in order to permit more effective and interrelated planning and operation of its rehabilitation programs, the State may submit a consolidated rehabilitation plan which includes the State's plan under section 101(a) of this Act and its program for persons with developmental disabilities under the Developmental Disabilities Assistance and Bill of Rights Act: *Provided,* That the agency administering such State's program under such Act concurs in the submission of such a consolidated rehabilitation plan.

(b) Such a consolidated rehabilitation plan must comply with, and be administered in accordance with, all the requirements of this Act and the Developmental Disabilities Assistance and Bill of Rights Act. If the Secretary finds that all such requirements are satisfied, the Secretary may—

(1) approve the plan to serve in all respects as the substitute for the separate plans which would otherwise be required with respect to each of the programs included therein; or

(2) advise the State to submit separate plans for such programs.

(c) Findings of noncompliance in the administration of an approved consolidated rehabilitation plan, and any reduction, suspensions, or terminations of assistance as a result thereof, shall be carried out in accordance with the procedures set forth in subsection (c) and (d) of section 107 of this Act.

(29 U.S.C. 705)

DEFINITIONS

SEC. 7. For the purposes of this Act:

(1) The term "construction" means the construction of new buildings, the acquisition, expansion, remodeling, alteration, and renovation of existing buildings, and initial equipment of such buildings, and the term "cost of construction" includes architects' fees and acquisition of land in connection with construction but does not include the cost of offsite improvements.

(2) The term "criminal act" means any crime, including an act, omission, or possession under the laws of the United States or a State or unit of general local government, which poses a substantial threat of personal injury, notwithstanding that by reason of age, insanity, intoxication or otherwise the person engaging in the act, omission, or possession was legally incapable of committing a crime.

(3)(A) The term "designated State agency" means an agency designated under section 101(a)(1)(A).[1] The term "designated State unit" means (i) any State agency unit required under section 101(a)(2)(A) of this Act, or (ii) in cases in which no such unit is so required, the State agency described in section 101(a)(B)(i)[2] of this Act.

(4)(A) The term "drug" means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812).

(B) The term "illegal use of drugs" means the use of drugs, the possesison or distribution of which is unlawful under the Controlled Substances Act. Such term does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

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[1] Section 102(a)(2) of Public Law 102–569 (106 Stat. 4347) added the first sentence, and the amendatory instructions did not provide closing quotes after "101(a)(1)(A)". The instructions also provided for a subparagraph (A), but not a subparagraph (B).

[2] So in law. The reference to section 101(a) does not indicate the paragraph in which a subparagraph (B)(i) is located.

(5) The term "employment outcome" means, with respect to an individual, entering or retaining full-time or, if appropriate, part-time competitive employment in the integrated labor market (including satisfying the vocational outcome of supported employment) or satisfying any other vocational outcome the Secretary may determine, consistent with this Act.

(6) The term "establishment of a community rehabilitation program" includes the acquisition, expansion, remodeling, or alteration of existing buildings necessary to adapt them to community rehabilitation program purposes or to increase their effectiveness for such purposes (subject, however, to such limitations as the Secretary may determine, in accordance with regulations the Secretary shall prescribe, in order to prevent impairment of the objectives of, or duplication of, other Federal laws providing Federal assistance in the construction of facilities for community rehabilitation programs), and may include such additional equipment and staffing as the Commissioner considers appropriate.

(7)(A)[1] Subject to subparagraphs (B) and (C), the term "Federal share" means 78.7 percent.

(B) The term "Federal share" means 90 percent for the purposes of part C of title I of this Act and as specifically set forth in section 111(a)(3), except that with respect to payments pursuant to part B of title I of this Act to any State which are used to meet the costs of construction of those rehabilitation facilities identified in section 103(b)(2) in such State, the Federal share shall be the percentages determined in accordance with the provisions of section 111(a)(3) applicable with respect to the State.

(C) For the purpose of determining the non-Federal share with respect to a State, expenditures by a political subdivision thereof or by a local agency shall be regarded as expenditures by such State, subject to such limitations and conditions as the Secretary shall by regulation prescribe.

(8)(A)[2] Except as otherwise provided in subparagraph (B), the term "individual with a disability" means any individual who (i) has a physical or mental impairment which for such individual constitutes or results in a substantial impediment to employment and (ii) can benefit in terms of an employment outcome from vocational rehabilitation services provided pursuant to titles I, II, III, VI, and VIII of this Act.

(B) Subject to subparagraphs (C), (D), (E), and (F), the term "individual with a disability" means, for purposes of sections 2, 14, and 15, and titles IV and V of this Act, any person who (i) has a physical or mental impairment which substantially limits one or more of such person's major life activities, (ii) has a record of such an impairment, or (iii) is regarded as having such an impairment.

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[1] Section 7(7) (as redesignated by §103(b) of Public Law 99–506) took effect October 1, 1988.

[2] Section 6(b)(3) of Public Law 100–430 provides as follows: "For the purposes of this Act as well as chapter 16 of title 29 of the United States Code, neither the term 'individual with handicaps' nor the term 'handicap' shall apply to an individual solely because that individual is a transvestite.". (Note that, since title 29 of the United States Code has not been enacted into law, the reference probably should have been a reference to the Rehabilitation Act of 1973, which is codified to chapter 16 of title 29 of the Code. (The Rehabilitation Act is the law, not chapter 16 of title 29 of the Code.))

(C)(i) For purposes of title V, the term "individual with a disability" does not include an individual who is currently engaging in the illegal use of drugs, when a covered entity acts on the basis of such use.

(ii) Nothing in clause (i) shall be construed to exclude as an individual with a disability an individual who—

(I) has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;

(II) is participating in a supervised rehabilitation program and is no longer engaging in such use; or

(III) is erroneously regarded as engaging in such use, but is not engaging in such use;

except that it shall not be a violation of this Act for a covered entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in subclause (I) or (II) is no longer engaging in the illegal use of drugs.

(iii) Notwithstanding clause (i), for purposes of programs and activities providing health services and services provided under titles I, II and III, an individual shall not be excluded from the benefits of such programs or activities on the basis of his or her current illegal use of drugs if he or she is otherwise entitled to such services.

(iv) For purposes of programs and activities providing educational services, local educational agencies may take disciplinary action pertaining to the use or possession of illegal drugs or alcohol against any student who is an individual with a disability and who currently is engaging in the illegal use of drugs or in the use of alcohol to the same extent that such disciplinary action is taken against students who are not individuals with disabilities. Furthermore, the due process procedures at 34 CFR 104.36 shall not apply to such disciplinary actions.

(v) For purposes of sections 503 and 504 as such sections relate to employment, the term "individual with a disability" does not include any individual who is an alcoholic whose current use of alcohol prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol abuse, would constitute a direct threat to property or the safety of others.

(D) For the purpose of sections 503 and 504, as such sections relate to employment, such term does not include an individual who has a currently contagious disease or infection and who, by reason of such disease or infection, would constitute a direct threat to the health or safety of other individuals or who, by reason of the currently contagious disease or infection, is unable to perform the duties of the job.

(E) For the purposes of sections 501, 503 and 504—

(i) for purposes of the application of subparagraph (B) to such sections, the term "impairment" does not include homosexuality or bisexuality; and

(ii) therefore the term "individual with a disability" does not include an individual on the basis of homosexuality or bisexuality.

(F) For the purposes of sections 501, 503, and 504, the term "individual with a disability" does not include an individual on the basis of—

(i) transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;

(ii) compulsive gambling, kleptomania, or pyromania; or

(iii) psychoactive substance use disorders resulting from current illegal use of drugs.

(9) The term "local agency" means an agency of a unit of general local government or of an Indian tribe (or combination of such units or tribes) which has an agreement with the State agency designated pursuant to section 101(a)(1) to conduct a vocational rehabilitation program under the supervision of such State agency in accordance with the State plan approved under section 101. Nothing in the preceding sentence of this paragraph or in section 101 shall be construed to prevent the local agency from utilizing another local public or nonprofit agency to provide vocational rehabilitation services: *Provided,* That such an arrangement is made part of the agreement specified in this paragraph.

(10) The term "nonprofit", when used with respect to a community rehabilitation program, means a community rehabilitation program carried out by a corporation or association, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual and the income of which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954.

(11) The term "personal assistance services" means a range of services, provided by one or more persons, designed to assist an individual with a disability to perform daily living activities on or off the job that the individual would typically perform if the individual did not have a disability. Such services shall be designed to increase the individual's control in life and ability to perform everyday activities on or off the job.

(12) The term "public safety officer" means a person serving the United States or a State or unit of general local government, with or without compensation, in any activity pertaining to—

(A) the enforcement of the criminal laws, including highway patrol, or the maintenance of civil peace by the National Guard or the Armed Forces,

(B) a correctional program, facility, or institution where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees,

(C) a court having criminal or juvenile delinquent jurisdiction where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees, or

(D) firefighting, fire prevention, or emergency rescue missions.

(13) The term "rehabilitation technology" means the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of and address the barriers confronted by individuals with disabilities in areas which include education, rehabilitation, employment, transportation, independent living, and recreation. The term includes rehabilitation engineering, assistive technology devices, and assistive technology services.

(14) The term "Secretary", except when the context otherwise requires, means the Secretary of Education.

(15)(A) Except as provided in subparagraph (B) or (C)[1] the term "individual with a severe disability" means an individual with a disability—

(i) who has a severe physical or mental impairment which seriously limits one or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome;

(ii) whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and

(iii) who has one or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental retardation, mental illness, multiple sclerosis, muscular dystrophy, musculo-skeletal disorders, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia, and other spinal cord conditions, sickle cell anemia, specific learning disability, end-stage renal disease, or another disability or combination of disabilities determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs described in subparagraphs (A) and (C) of paragraph (22) to cause comparable substantial functional limitation.

(B) For purposes of title VII, the term "individual with a severe disability" means an individual with a severe physical or mental impairment whose ability to function independently in the family or community or whose ability to obtain, maintain, or advance in employment is substantially limited and for whom the delivery of independent living services will improve the ability to function, continue functioning, or move towards functioning independently in the family or community or to continue in employment, respectively.

(C) For purposes of section 13 and title II, the term "individual with a severe disability" includes an individual described in subparagraph (A) or (B).

(16) The term "State" includes, in addition to each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Is-

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[1] So in law. See section 102(j)(1)(A) of Public Law 102-569 (106 Stat. 4349). A comma probably should follow "subparagraph (C)".

lands, and the Republic of Palau (until the Compact of Free Association with Palau takes effect).

(17) The term "vocational rehabilitation services" means those services identified in section 103 which are provided to individuals with disabilities under this Act.

(18)(A) The term "supported employment" means competitive work in integrated work settings for individuals with the most severe disabilities—

(i)(I) for whom competitive employment has not traditionally occurred; or

(II) for whom competitive employment has been interrupted or intermittent as a result of a severe disability; and

(ii) who, because of the nature and severity of their disability, need intensive supported employment services or extended services in order to perform such work.

(B) Such term includes transitional employment for persons who are individuals with the most severe disabilities due to mental illness.

(19) The term "public or nonprofit", with respect to an agency or organization, includes an Indian tribe.

(20) The terms "Indian", "American Indian", and "Indian American" means an individual who is a member of an Indian tribe.

(21) The term "Indian tribe" means any Federal or State Indian tribe, band, rancheria, pueblo, colony, or community, including any Alaskan native village or regional village corporation (as defined in or established pursuant to the Alaska Native Claims Settlement Act).

(22) The term "assessment for determining eligibility and vocational rehabilitation needs" means, as appropriate in each case—

(A)(i) a review of existing data—

(I) to determine whether an individual is eligible for vocational rehabilitation services; and

(II) to assign the priority described in section 101(a)(5)(A) in the States that use an order of selection pursuant to section 101(a)(5)(A); and

(ii) to the extent additional data is necessary to make such determination and assignment, a preliminary assessment of such data (including the provision of goods and services during such assessment);

(B) to the extent additional data is necessary, a comprehensive assessment (including the administration of the assessment) of the unique strengths, resources, priorities, interests, and needs, including the need for supported employment, of an eligible individual to make a determination of the goals, objectives, nature, and scope of vocational rehabilitation services to be included in the individualized written rehabilitation program of the individual, which comprehensive assessment—

(i) is limited to information that is necessary to identify the rehabilitation needs of the individual and to develop the rehabilitation program of the individual;

(ii) uses, as a primary source of such information, to the maximum extent possible and appropriate and in accordance with confidentiality requirements—

(I) existing information; and

(II) such information as can be provided by the individual and, where appropriate, by the family of the individual;

(iii) may include, to the degree needed to make such a determination, an assessment of the personality, interests, interpersonal skills, intelligence and related functional capacities, educational achievements, work experience, vocational aptitudes, personal and social adjustments, and employment opportunities of the individual, and the medical, psychiatric, psychological, and other pertinent vocational, educational, cultural, social, recreational, and environmental factors, that affect the employment and rehabilitation needs of the individual; and

(iv) may include an appraisal of the patterns of work behavior of the individual and services needed for the individual to acquire occupational skills, and to develop work attitudes, work habits, work tolerance, and social and behavior patterns necessary for successful job performance, including the utilization of work in real job situations to assess and develop the capacities of the individual to perform adequately in a work environment; and

(C)(i) referral;

(ii) where appropriate, the provision of rehabilitation technology services to an individual with a disability to assess and develop the capacities of the individual to perform in a work environment; and

(iii)(I) the provision of vocational rehabilitation services to an individual for a total period not in excess of 18 months for the limited purpose of making determinations regarding whether an individual is eligible for vocational rehabilitation services and regarding the nature and scope of vocational rehabilitation services needed for such individual; and

(II) an assessment at least once in every 90-day period during which such services are provided, of the results of the provision of such services to an individual to ascertain whether any of the determinations described in subclause (I) may be made.

(23) The term "assistive technology device" has the meaning given such term in section 3(1) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2202(1)), except that the reference in such section to the term "individuals with disabilities" shall be deemed to mean more than one individual with a disability as defined in paragraph (8)(A).

(24) The term "assistive technology service" has the meaning given such term in section 3(2) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2202(2)), except that the reference in such section—

(A) to the term "individual with a disability" shall be deemed to mean an individual with a disability, as defined in paragraph (8)(A); and

(B) to the term "individuals with disabilities" shall be deemed to mean more than one such individual.

(25) The term "community rehabilitation program" means a program that provides directly or facilitates the provision of vocational rehabilitation services to individuals with disabilities, and that provides, singly or in combination, for an individual with a disability to enable the individual to maximize opportunities for employment, including career advancement—

(A) medical, psychiatric, psychological, social, and vocational services that are provided under one management;

(B) testing, fitting, or training in the use of prosthetic and orthotic devices;

(C) recreational therapy;

(D) physical and occupational therapy;

(E) speech, language, and hearing therapy;

(F) psychiatric, psychological, and social services, including positive behavior management;

(G) assessment for determining eligibility and vocational rehabilitation needs;

(H) rehabilitation technology;

(I) job development, placement, and retention services;

(J) evaluation or control of specific disabilities;

(K) orientation and mobility services for individuals who are blind;

(L) extended employment;

(M) psychosocial rehabilitation services;

(N) supported employment services and extended services;

(O) services to family members when necessary to the vocational rehabilitation of the individual;

(P) personal assistance services; or

(Q) services similar to the services described in one of subparagraphs (A) through (P).

(26) The term "disability" means—

(A) except as otherwise provided in subparagraph (B), a physical or mental impairment that constitutes or results in a substantial impediment to employment; or

(B) for purposes of sections 2, 14, and 15, and titles II, III, IV, V, and VIII, a physical or mental impairment that substantially limits one or more major life activities.

(27) The term "extended services" means ongoing support services and other appropriate services, needed to support and maintain an individual with the most severe disability in supported employment, that—

(A) are provided singly or in combination and are organized and made available in such a way as to assist an eligible individual in maintaining integrated, competitive employment;

(B) are based on a determination of the needs of an eligible individual, as specified in an individualized written rehabilitation program; and

(C) are provided by a State agency, a nonprofit private organization, employer, or any other appropriate resource, after an individual has made the transition from support provided by the designated State unit.

(28)(A) The term "impartial hearing officer" means an individual—

(i) who is not an employee of a public agency (other than an administrative law judge, hearing examiner, or employee of an institution of higher education);

(ii) who is not a member of the State Rehabilitation Advisory Council described in section 105;

(iii) who has not been involved in previous decisions regarding the vocational rehabilitation of the applicant or client;

(iv) who has knowledge of the delivery of vocational rehabilitation services, the State plan under section 101, and the Federal and State rules governing the provision of such services and training with respect to the performance of official duties; and

(v) who has no personal or financial interest that would be in conflict with the objectivity of the individual.

(B) An individual shall not be considered to be an employee of a public agency for purposes of subparagraph (A)(i) solely because the individual is paid by the agency to serve as a hearing officer.

(29) The term "independent living core services" means—

(A) information and referral services;

(B) independent living skills training;

(C) peer counseling (including cross-disability peer counseling); and

(D) individual and systems advocacy.

(30) The term "independent living services" includes—

(A) independent living core services; and

(B)(i) counseling services, including psychological, psychotherapeutic, and related services;

(ii) services related to securing housing or shelter, including services related to community group living, and supportive of the purposes of this Act and of the titles of this Act, and adaptive housing services (including appropriate accommodations to and modifications of any space used to serve, or occupied by, individuals with disabilities);

(iii) rehabilitation technology;

(iv) mobility training;

(v) services and training for individuals with cognitive and sensory disabilities, including life skills training, and interpreter and reader services;

(vi) personal assistance services, including attendant care and the training of personnel providing such services;

(vii) surveys, directories, and other activities to identify appropriate housing, recreation opportunities, and accessible transportation, and other support services;

(viii) consumer information programs on rehabilitation and independent living services available under this Act, especially for minorities and other individuals with disabilities who have traditionally been unserved or underserved by programs under this Act;

(ix) education and training necessary for living in a community and participating in community activities;

(x) supported living;

(xi) transportation, including referral and assistance for such transportation;

(xii) physical rehabilitation;

(xiii) therapeutic treatment;

(xiv) provision of needed prostheses and other appliances and devices;

(xv) individual and group social and recreational services;

(xvi) training to develop skills specifically designed for youths who are individuals with disabilities to promote self-awareness and esteem, develop advocacy and self-empowerment skills, and explore career options;

(xvii) services for children;

(xviii) services under other Federal, State, or local programs designed to provide resources, training, counseling, or other assistance, of substantial benefit in enhancing the independence, productivity, and quality of life of individuals with disabilities;

(xix) appropriate preventive services to decrease the need of individuals assisted under this Act for similar services in the future;

(xx) community awareness programs to enhance the understanding and integration into society of individuals with disabilities; and

(xxi) such other services as may be necessary and not inconsistent with the provisions of this Act.

(31)(A) The term "individuals with disabilities" means more than one individual with a disability.

(B) The term "individuals with severe disabilities" means more than one individual with a severe disability.

(C) The term "individuals with the most severe disabilities" means more than one individual with the most severe disability.

(32) The term "institution of higher education" has the meaning given the term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

(33) The term "ongoing support services" means services—

(A) provided to individuals with the most severe disabilities;

(B) provided, at a minimum, twice monthly—

(i) to make an assessment, regarding the employment situation, at the worksite of each such individual in supported employment, or, under special circumstances, especially at the request of the client, off site; and

(ii) based on the assessment, to provide for the coordination or provision of specific intensive services, at or away from the worksite, that are needed to maintain employment stability; and

(C) consisting of—

(i) a particularized assessment supplementary to the comprehensive assessment described in paragraph (22)(B);

(ii) the provision of skilled job trainers who accompany the individual for intensive job skill training at the work site;

(iii) job development and placement;

(iv) social skills training;

(v) regular observation or supervision of the individual;

(vi) followup services such as regular contact with the employers, the individuals, the parents, family members, guardians, advocates, or authorized representatives of the individuals, and other suitable professional and informed advisors, in order to reinforce and stabilize the job placement;

(vii) facilitation of natural supports at the worksite;

(viii) any other service identified in section 103; or

(ix) a service similar to another service described in this subparagraph.

(34) The term "supported employment services" means ongoing support services and other appropriate services needed to support and maintain an individual with the most severe disability in supported employment, that—

(A) are provided singly or in combination and are organized and made available in such a way to assist an eligible individual in entering or maintaining integrated, competitive employment;

(B) are based on a determination of the needs of an eligible individual, as specified in an individualized written rehabilitation program; and

(C) are provided by the designated State unit for a period of time not to extend beyond 18 months, unless under special circumstances the eligible individual and the rehabilitation counselor or coordinator jointly agree to extend the time in order to achieve the rehabilitation objectives identified in the individualized written rehabilitation program.

(35) The term "transition services" means a coordinated set of activities for a student, designed within an outcome-oriented process, that promotes movement from school to post school activities, including post secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities shall be based upon the individual student's needs, taking into account the student's preferences and interests, and shall include instruction, community experiences, the development of employment and other post school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

(29 U.S.C. 706)

ALLOTMENT PERCENTAGE

SEC. 8. (a)(1) For purposes of section 110, the allotment percentage for any State shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States, except that (A) the allotment percentage shall in no case be more than 75 per centum or less than 33⅓ per centum, and (B) the allotment percentage for the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Republic of Palau (until the Compact of Free Association with Palau takes effect) shall be 75 per centum.

(2) The allotment percentages shall be promulgated by the Secretary between October 1 and December 31 of each even-numbered year, on the basis of the average of the per capita incomes of the States and of the United States for the three most recent consecutive years for which satisfactory data are available from the Department of Commerce. Such promulgation shall be conclusive for each of the two fiscal years in the period beginning on the October 1 next succeeding such promulgation.

(3) The term "United States" means (but only for purposes of this subsection) the fifty States and the District of Columbia.

(b) The population of the several States and of the United States shall be determined on the basis of the most recent data available, to be furnished by the Department of Commerce by October 1 of the year preceding the fiscal year for which funds are appropriated pursuant to statutory authorizations.

(29 U.S.C. 707)

AUDIT

SEC. 9. Each recipient of a grant or contract under this Act shall keep such records as the Secretary may prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant or contract, the total cost of the project or undertaking in connection with which such grant or contract is made or funds thereunder used, the amount of that portion of the cost of the project or undertaking supplied by other sources and such records as will facilitate an effective audit. The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of any grant or contract under this Act which are pertinent to such grant or contract.

(29 U.S.C. 708)

NONDUPLICATION

SEC. 10. In determining the amount of any State's Federal share of expenditures for planning, administration, and services incurred by it under a State plan approved in accordance with section 101, there shall be disregarded (1) any portion of such expenditures which are financed by Federal funds provided under any other provision of law, and (2) the amount of any non-Federal funds required to be expended as a condition of receipt of such Federal funds. No payment may be made from funds provided under one provision of this Act relating to any cost with respect to which any payment is made under any other provision of this Act, except that this section shall not be construed to limit or reduce fees for services rendered by community rehabilitation programs.

(29 U.S.C. 709)

APPLICATION OF OTHER LAWS

SEC. 11. The provisions of the Act of December 5, 1974 (Public Law 93–510) and of title V of the Act of October 15, 1977 (Public Law 95–134) shall not apply to the administration of the provisions of this Act or to the administration of any program or activity under this Act.

(29 U.S.C. 710)

ADMINISTRATION OF THE ACT

SEC. 12. (a) In carrying out the purposes of this Act, the Commissioner may—

(1) provide consultative services and technical assistance to public or nonprofit private agencies and organizations;

(2) provide short-term training and technical instruction, including training for the personnel of community rehabilitation programs, centers for independent living, and other providers of services (including job coaches);

(3) conduct special projects and demonstrations;

(4) collect, prepare, publish, and disseminate special educational or informational materials, including reports of the projects for which funds are provided under this Act; and

(5) provide monitoring and conduct evaluations.

(b)(1) In carrying out the duties under this Act, the Commissioner may utilize the services and facilities of any agency of the Federal Government and of any other public or nonprofit agency or organization, in accordance with agreements between the Commissioner and the head thereof, and may pay therefor, in advance or by way of reimbursement, as may be provided in the agreement.

(2) In carrying out the provisions of this Act, the Commissioner shall appoint such task forces as may be necessary to collect and disseminate information in order to improve the ability of the Commissioner to carry out the provisions of this Act.

(c) The Commissioner may promulgate such regulations as are considered appropriate to carry out the Commissioner's duties under this Act.

(d) The Secretary shall promulgate regulations regarding the requirements for the implementation of an order of selection for vocational rehabilitation services under section 101(a)(5)(A) if such services cannot be provided to all eligible individuals with disabilities who apply for such services.

(e)(1) Not later than 120 days after the date of the enactment of the Rehabilitation Act Amendments of 1992, the Secretary shall receive public comment and promulgate regulations establishing criteria pertaining to the selection of vocational rehabilitation services, and of vocational rehabilitation services providers, by an individual with a disability, consistent with the individualized written rehabilitation program of the individual under section 102.

(2) Regulations under paragraph (1) shall include the following:

(A) Procedures that States must adopt to ensure that the services provided under this Act are of sufficient scope and quality, that the costs of such services and the length of time such services are provided are reasonable, and that such services are available in a timely manner.

(B) Procedures that prevent fraud, waste, and abuse.

(C) Procedures to assure that services are provided in the most integrated settings.

(D) Procedures to assure that rehabilitation providers comply with State guarantees, such as—

(i) affirmative action procedures with respect to the employment of individuals with disabilities;

(ii) standards governing community rehabilitation programs and qualified personnel utilized for the provision of vocational rehabilitation services; and

(iii) minimum standards to ensure the availability of personnel, to the maximum extent feasible, trained to communicate in the native language or mode of communication of the client.

(E) Standards to be adhered to by providers to help ensure the integrity of services.

(F) Guidelines for assisting individuals with disabilities and for providing information about available vocational rehabilitation service providers, especially for assisting—

(i) individuals with cognitive and other disabilities who, due to the nature of the disability, require support and assistance in fully implementing the selection and procurement of services; and

(ii) the parents, family members, guardians, advocates, or authorized representatives of the individuals.

(f) There are authorized to be appropriated to carry out this section such sums as may be necessary.

(29 U.S.C. 711)

REPORTS

SEC. 13. Not later than one hundred and twenty days after the close of each fiscal year, the Commissioner shall prepare and submit to the President and to the Congress a full and complete report on the activities carried out under this Act, including the activities and staffing of the information clearinghouse under section 15. The Commissioner shall annually collect information on each client whose case is closed out in the preceding fiscal year and include the information in the report required by this section. The information shall set forth a complete count of such cases in a manner permitting the greatest possible cross-classification of data. The data elements shall include, but not be limited to, age, sex, race, ethnicity, education, type of disability, severity of disability, key rehabilitation process dates, earnings at time of entry into program and at closure, work status, occupation, cost of case services, types of services provided, including types of rehabilitation technology services provided, types of facilities or agencies which furnished services and whether each such facility or agency is public or private, and reasons for closure. The Commissioner shall take whatever action is necessary to assure that the identity of each client for which information is supplied under this subsection is confidential. Such annual reports shall also include statistical data reflecting services and activities provided individuals during the preceding fiscal year. The annual report shall include an evaluation of the status of individuals with severe disabilities participating in programs under this Act.

(29 U.S.C. 712)

EVALUATION

SEC. 14. (a) For the purpose of improving program management and effectiveness, the Secretary, in consultation with the Commissioner, shall evaluate all the programs authorized by this Act, their general effectiveness in relation to their cost, their impact on related programs, and their structure and mechanisms for delivery of services, using appropriate methodology and evaluative research designs. The Secretary shall establish and use standards for the evaluations required by this subsection. The standards shall, to the extent feasible, for all appropriate programs include standards relating to the increases in employment and earnings, taking into account economic factors in the area to be served by the program,[1] the characteristics of the individuals with disabilities to be served, and the employment outcomes to be attained. Evaluations shall be conducted by persons not immediately involved in the administration of the program or project evaluated.

(b) In carrying out evaluations under this section, the Secretary shall obtain the opinions of program and project participants about the strengths and weaknesses of the programs and projects.

(c) The Secretary shall annually publish summaries of the results of evaluative research and evaluations of program and project impact and effectiveness, including the standards used for such evaluations, the full contents of which shall be available to the Congress and the public.

(d) The Secretary shall take the necessary action to assure that all studies, evaluations, proposals, and data produced or developed with Federal funds shall become the property of the United States.

(e) Such information as the Secretary may deem necessary for purposes of the evaluations conducted under this section shall be made available upon request of the Secretary, by the departments and agencies of the executive branch.

(f)(1) To assess the linkages between vocational rehabilitation services and economic and noneconomic outcomes, the Secretary shall continue to conduct a longitudinal study of a national sample of applicants for the services.

(2) The study shall address factors related to attrition and completion of the program through which the services are provided and factors within and outside the program affecting results. Appropriate comparisons shall be used to contrast the experiences of similar persons who do not obtain the services.

(3) The study shall be planned to cover the period beginning on the application of the individuals for the services, through the eligibility determination and provision of services for the individuals, and a further period of not less than 2 years after the termination of services.

(g) There are authorized to be appropriated to carry out this section such sums as may be necessary.

(29 U.S.C. 713)

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[1] The amendment described in subparagraph (B) of section 107(2) of Public Law 102–569 (106 Stat. 4362) is unnecessary, and could not be executed, due to the amendment made by subparagraph (A) of such section.

INFORMATION CLEARINGHOUSE

SEC. 15. (a) The Secretary shall establish a central clearinghouse for information and resource availability for individuals with disabilities which shall provide information and data regarding (1) the location, provision, and availability of services and programs for individuals with disabilities, (2) research and recent medical and scientific developments bearing on disabilities (and their prevention, amelioration, causes, and cures), and (3) the current numbers of individuals with disabilities and their needs. The clearinghouse shall also provide any other relevant information and data which the Secretary considers appropriate.

(b) The Commissioner may assist the Secretary to develop within the Department of Education a coordinated system of information and data retrieval, which will have the capacity and responsibility to provide information regarding the information and data referred to in subsection (a) of this section to the Congress, public and private agencies and organizations, individuals with disabilities and their families, professionals in fields serving such individuals, and the general public.

(c) The office established to carry out the provisions of this section shall be known as the "Office of Information and Resources for Individuals with Disabilities".

(d) There are authorized to be appropriated to carry out this section such sums as may be necessary.

(29 U.S.C. 714)

TRANSFER OF FUNDS

SEC. 16. (a) Except as provided in subsection (b) of this section, no funds appropriated under this Act for any research program or activity may be used for any purpose other than that for which the funds were specifically authorized.

(b) No more than 1 percent of funds appropriated for discretionary grants, contracts, or cooperative agreements authorized by this Act may be used for the purpose of providing non-Federal panels of experts to review applications for such grants, contracts, or cooperative agreements.

(29 U.S.C. 715)

STATE ADMINISTRATION

SEC. 17. The application of any State rule or policy relating to the administration or operation of programs funded by this Act (including any rule or policy based on State interpretation of any Federal law, regulation, or guideline) shall be identified as a State imposed requirement.

(29 U.S.C. 716)

REVIEW OF APPLICATIONS

SEC. 18. Applications for grants or contracts in excess of $60,000 in the aggregate authorized to be funded under this Act, other than grants or contracts for evaluations, dissemination, or conferences, shall be reviewed by panels of experts which shall include a majority of non-Federal members. Non-Federal members may be provided travel, per diem, and consultant fees not to exceed the daily equivalent of the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382 of title 5, United States Code.

(29 U.S.C. 717)

SEC. 19. CARRYOVER.

(a) In General.—Except as provided in subsection (b), and notwithstanding any other provision of law, any funds appropriated for a fiscal year to carry out any grant program under part B or C of title I, section 509, part C of title VI, or part B or C of chapter 1 of title VII, that are not obligated and expended by recipients prior to the beginning of the succeeding fiscal year shall remain available for obligation and expenditure by such recipients during such succeeding fiscal year.

(b) Non-Federal Share.—Such funds shall remain available for obligation and expenditure by a recipient as provided in subsection (a) only to the extent that the recipient complied with any Federal share requirements applicable to the program for the fiscal year for which the funds were appropriated.

(29 U.S.C. 718)

SEC. 20. CLIENT ASSISTANCE INFORMATION.

All programs, including community rehabilitation programs, and projects, that provide services to individuals with disabilities under this Act shall advise such individuals, or the parents, family members, guardians, advocates, or authorized representatives of the individuals, of the availability and purposes of the client assistance program under section 112, including information on means of seeking assistance under such program.

(29 U.S.C. 718a)

SEC. 21. TRADITIONALLY UNDERSERVED POPULATIONS.

(a) Findings.—With respect to the programs authorized in titles II through VIII, the Congress finds as follows:

(1) Racial profile.—The racial profile of America is rapidly changing. While the rate of increase for white Americans is 3.2 percent, the rate of increase for racial and ethnic minorities is much higher: 38.6 percent for Latinos, 14.6 percent for African-Americans, and 40.1 percent for Asian-Americans and other ethnic groups. By the year 2000, the Nation will have 260,000,000 people, one of every three of whom will be either African-American, Latino, or Asian-American.

(2) Rate of disability.—Ethnic and racial minorities tend to have disabling conditions at a disproportionately high rate. The rate of work-related disability for American Indians is about one and one-half times that of the general population. African-Americans are also one and one-half times more likely to be disabled than whites and twice as likely to be severely disabled.

(3) Inequitable treatment.—Patterns of inequitable treatment of minorities have been documented in all major junctures of the vocational rehabilitation process. As compared to white Americans, a larger percentage of African-American applicants to the vocational rehabilitation system is denied ac-

ceptance. Of applicants accepted for service, a larger percentage of African-American cases is closed without being rehabilitated. Minorities are provided less training than their white counterparts. Consistently, less money is spent on minorities than on their white counterparts.

(4) RECRUITMENT.—Recruitment efforts within vocational rehabilitation at the level of pre-service training, continuing education, and in-service training must focus on bringing larger numbers of minorities into the profession in order to provide appropriate practitioner knowledge, role models, and sufficient manpower to address the clearly changing demography of vocational rehabilitation.

(b) OUTREACH TO MINORITIES.—

(1) POLICY.—The Commissioner shall develop a policy to mobilize the resources of the Nation to prepare minorities for careers in vocational rehabilitation, independent living, and related services.

(2) FOCUS.—This policy shall focus on—

(A) the recruitment of minorities into the field of vocational rehabilitation counseling and related disciplines; and

(B) financially assisting Historically Black Colleges and Universities, Hispanic-serving institutions of higher education, and other institutions of higher education whose minority enrollment is at least 50 percent to prepare students for vocational rehabilitation and related service careers.

(3) PLAN.—

(A) DEVELOPMENT.—The Commissioner shall develop a plan to provide outreach services and other related activities (such as cooperative efforts) to the entities described in subparagraph (B) in order to enhance the capacity and increase the participation of such entities in competitions for grants, contracts, and cooperative agreements under titles I through VIII.

(B) ENTITIES.—The entities referred to in subparagraph (A) are—

(i) Historically Black Colleges and Universities, Hispanic-serving institutions of higher education, and other institutions of higher education whose minority student enrollment is at least 50 percent;

(ii) nonprofit and for-profit agencies at least 51 percent owned or controlled by one or more minority individuals; and

(iii) underrepresented populations.

(C) FUNDING.—For the purpose of implementing the plan required in subparagraph (A), the Commissioner shall, for each of the fiscal years 1993 through 1997, expend 1 percent of the funds appropriated for the fiscal year involved for carrying out programs authorized in titles II through VIII of this Act, except programs authorized under title IV or V.

(3)[1] EFFORT.—The Commissioner shall exercise the utmost authority, resourcefulness, and diligence to meet the requirements of this section.

(4)[1] REPORT.—

(A) IN GENERAL.—Not later than January 31 of each year, starting with fiscal year 1994, the Commissioner shall prepare and submit to Congress a final report on the progress toward meeting the goals of this section during the preceding fiscal year.

(B) CONTENTS.—The report shall include—

(i) a full explanation of any progress toward meeting the goals of this section; and

(ii) a plan to meet the goals, if necessary.

(5)[1] DEMONSTRATION.—In awarding grants, contracts, or cooperative agreements under titles I, II, III, VI, VII, and VIII, and section 509, the Commissioner and the Director of the National Institute on Disability and Rehabilitation Research, where appropriate, shall require applicants to demonstrate how they will address, in whole or in part, the needs of individuals with disabilities from minority backgrounds.

(29 U.S.C. 718b)

TITLE I—VOCATIONAL REHABILITATION SERVICES

PART A—GENERAL PROVISIONS

DECLARATION OF POLICY; AUTHORIZATION OF APPROPRIATIONS

SEC. 100. (a)(1) Congress finds that—

(A) work—

(i) is a valued activity, both for individuals and society; and

(ii) fulfills the need of an individual to be productive, promotes independence, enhances self-esteem, and allows for participation in the mainstream of life in America;

(B) as a group, individuals with disabilities experience staggering levels of unemployment and poverty;

(C) individuals with disabilities, including individuals with the most severe disabilities, have demonstrated their ability to achieve gainful employment in integrated settings if appropriate services and supports are provided;

(D) reasons for the significant number of individuals with disabilities not working, or working at a level not commensurate with their abilities and capabilities, include—

(i) discrimination;

(ii) lack of accessible and available transportation;

(iii) fear of losing health coverage under the medicare and medicaid programs under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq. and 1396 et seq.) or fear of losing existing private health insurance; and

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[1] So in law. See section 111(a) of Public Law 102-569 (106 Stat. 4363). Paragraphs (3) (the second (3)) through (5) probably should be redesignated as paragraphs (4) through (6).

(iv) lack of education, training, and supports to meet job qualification standards necessary to enter or retain or advance in employment;

(E) enforcement of title V and of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) holds the promise of ending discrimination for individuals with disabilities; and

(F) the provision of vocational rehabilitation services can enable individuals with disabilities, including individuals with the most severe disabilities, to pursue meaningful careers by securing gainful employment commensurate with their abilities and capabilities.

(2) The purpose of this title is to assist States in operating a comprehensive, coordinated, effective, efficient, and accountable program of vocational rehabilitation that is designed to assess, plan, develop, and provide vocational rehabilitation services for individuals with disabilities, consistent with their strengths, resources, priorities, concerns, abilities, and capabilities, so that such individuals may prepare for and engage in gainful employment.

(3) It is the policy of the United States that such a program shall be carried out in a manner consistent with the following principles:

(A) Individuals with disabilities, including individuals with the most severe disabilities, are generally presumed to be capable of engaging in gainful employment and the provision of individualized vocational rehabilitation services can improve their ability to become gainfully employed.

(B) Individuals with disabilities must be provided the opportunities to obtain gainful employment in integrated settings.

(C) Individuals with disabilities must be active participants in their own rehabilitation programs, including making meaningful and informed choices about the selection of their vocational goals and objectives and the vocational rehabilitation services they receive.

(D) Families and natural supports can play an important role in the success of a vocational rehabilitation program, if the individual with a disability requests, desires, or needs such supports.

(E) Qualified vocational rehabilitation counselors, other qualified rehabilitation personnel, and other qualified personnel facilitate the accomplishment of the employment goals and objectives of an individual.

(F) Individuals with disabilities and their advocates are full partners in the vocational rehabilitation program and must be involved on a regular basis and in a meaningful manner with respect to policy development and implementation.

(G) Accountability measures must facilitate and not impede the accomplishment of the goals and objectives of the program, including providing vocational rehabilitation services to, among others, individuals with the most severe disabilities.

(b)(1) For the purpose of making grants to States under part B (other than grants under section 112) to assist States in meeting the costs of vocational rehabilitation services provided in accordance with State plans under section 101, there are authorized to be appropriated such sums as may be necessary for fiscal years 1993 through 1997, except that the amount to be appropriated for a fiscal year shall not be less than the amount of the appropriation under this subsection for the immediately preceding fiscal year, plus the amount of the Consumer Price Index addition determined under subsection (c) for the immediately preceding fiscal year.

(2) There are authorized to be appropriated to carry out part C such sums as may be necessary for fiscal years 1993 through 1997.

(c)(1) No later than November 15 of each fiscal year (beginning with the fiscal year 1979), the Secretary of Labor shall publish in the Federal Register the percentage change in the Consumer Price Index published for October of the preceding fiscal year and October of the fiscal year in which such publication is made.

(2)(A) If in any fiscal year the percentage change published under paragraph (1) indicates an increase in the Consumer Price Index, then the amount to be appropriated under subsection (b) for the subsequent fiscal year shall be at least the amount appropriated for the fiscal year in which the publication is made under paragraph (1) increased by such percentage change.

(B) If in any fiscal year the percentage change published under paragraph (1) does not indicate an increase in the Consumer Price Index, then the amount to be appropriated under subsection (b) for the subsequent fiscal year shall be at least the amount appropriated for the fiscal year in which the publication is made under paragraph (1).

(3) For purposes of this section, the term "Consumer Price Index" means the Consumer Price Index for All Urban Consumers, published monthly by the Bureau of Labor Statistics.

(d)(1)(A) Unless the Congress in the regular session which ends prior to the beginning of the terminal fiscal year—

(i) of the authorization of appropriations for the program authorized by the State grant program under part B of this title; or

(ii) of the duration of the program authorized by the State grant program under part B of this title;

has passed legislation which would have the effect of extending the authorization or duration (as the case may be) of such program, such authorization is automatically extended for one additional year for the program authorized by this title.

(B) The amount authorized to be appropriated for the additional fiscal year described in subparagraph (A) shall be an amount equal to the amount appropriated for such program for fiscal year 1997, plus the amount of the Consumer Price Index addition determined under subsection (c) for the immediately preceding fiscal year.

(2)(A) For the purposes of subdivision (i) of paragraph (1), the Congress shall not have been deemed to have passed legislation unless such legislation becomes law.

(B) In any case where the Commissioner is required under an applicable statute to carry out certain acts or make certain determinations which are necessary for the continuation of the program authorized by this title, if such acts or determinations are required during the terminal year of such program, such acts and determinations shall be required during any fiscal year in which that part of paragraph (1) of this subsection which follows subdivision (ii) of paragraph (1) is in operation.

(29 U.S.C. 720)

STATE PLANS

SEC. 101. (a) In order to be eligible to participate in programs under this title, a State shall submit to the Commissioner a State plan for vocational rehabilitation services for a 3-year period, or shall submit the plan on such date, and at such regular intervals, as the Secretary may determine to be appropriate to coincide with the intervals at which the State submits State plans under other Federal laws, such as part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.). In order to be eligible to participate in programs under this title, a State, upon the request of the Commissioner, shall make such annual revisions in the plan as may be necessary. Each such plan shall—

(1)(A) designate a State agency as the sole State agency to administer the plan, or to supervise its administration by a local agency, except that (i) where, under the State's law, the State agency for individuals who are blind or other agency which provides assistance or services to adults who are blind is authorized to provide vocational rehabilitation services to such individuals, such agency may be designated as the sole State agency to administer the part of the plan under which vocational rehabilitation services are provided for individuals who are blind (or to supervise the administration of such part by a local agency) and a separate State agency may be designated as the sole State agency with respect to the rest of the State plan, (ii) the Commissioner, upon the request of a State, may authorize such agency to share funding and administrative responsibility with another agency of the State or with a local agency in order to permit such agencies to carry out a joint program to provide services to individuals with disabilities, and may waive compliance with respect to vocational rehabilitation services furnished under such programs with the requirement of paragraph (4) of this subsection that the plan be in effect in all political subdivisions of that State, and (iii) in the case of American Samoa, the appropriate State agency shall be the Governor of American Samoa;

(B) provide that the State agency so designated to administer or supervise the administration of the State plan, or (if there are two State agencies designated under subparagraph (A) of this paragraph) to supervise or administer the part of the State plan that does not relate to services for individuals who are blind, shall be (i) a State agency primarily concerned with vocational rehabilitation, or vocational and other rehabilitation, of individuals with disabilities, (ii) the State agency administering or supervising the administration of education or vocational education in the State, or (iii) a State agency which includes at least two other major organizational units each of which administers one or more of the major public education, public health, public welfare, or labor programs of the State;

(2) provide, except in the case of agencies described in paragraph (1)(B)(i)—

(A) that the State agency designated pursuant to paragraph (1) (or each State agency if two are so designated) shall include a vocational rehabilitation bureau, division, or other organizational unit which (i) is primarily concerned with vocational rehabilitation, or vocational and other rehabilitation, of individuals with disabilities, and is responsible for the vocational rehabilitation program of such State agency, (ii) has a full-time director, and (iii) has a staff employed on such rehabilitation work of such organizational unit all or substantially all of whom are employed full time on such work; and

(B)(i) that such unit shall be located at an organizational level and shall have an organizational status within such State agency comparable to that of other major organizational units of such agency, or (ii) in the case of an agency described in paragraph (1)(B)(ii), either that such unit shall be so located and have such status, or that the director of such unit shall be the executive officer of such State agency; except that, in the case of a State which has designated only one State agency pursuant to paragraph (1) of this subsection, such State may, if it so desires, assign responsibility for the part of the plan under which vocational rehabilitation services are provided for the blind to one organizational unit of such agency, and assign responsibility for the rest of the plan to another organizational unit of such agency, with the provisions of this paragraph applying separately to each of such units;

(3) provide for financial participation by the State, or if the State so elects, by the State and local agencies to meet the amount of the non-Federal share;

(4) provide that the plan shall be in effect in all political subdivisions, except that in the case of any activity which, in the judgment of the Commissioner, is likely to assist in promoting the vocational rehabilitation of substantially larger numbers of individuals with disabilities or groups of individuals with disabilities the Commissioner may waive compliance with the requirement herein that the plan be in effect in all political subdivisions of the State to the extent and for such period as may be provided in accordance with regulations prescribed by the Commissioner, but only if the non-Federal share of the cost of such vocational rehabilitation services is met from funds made available by a local agency (including, to the extent permitted by such regulations, funds contributed to such agency by a private agency, organization, or individual);

(5)(A) contain the plans, policies, and methods to be followed in carrying out the State plan and in its administration and supervision, including the results of a comprehensive, Statewide assessment of the rehabilitation needs of individuals with severe disabilities residing within the State and the State's response to the assessment, a description of the method to be used to expand and improve services to individuals with the most severe disabilities including individuals served under part C of title VI of this Act, and a description of the method to be used to utilize community rehabilitation programs to the maximum extent feasible, an explanation of the methods by which the State will provide vocational rehabilitation services to all individuals with disabilities within the State who are eligible for such services, and, in the event that vocational rehabilitation services cannot be provided to all eligible individuals with disabilities who apply for such services, (i) show and provide the justification for the order to be followed in selecting individuals to whom vocational rehabilitation services will be provided,,[1] and (ii) show the outcomes and service goals,,[1] and the time within which they may be achieved, for the rehabilitation of such individuals, which order of selection for the provision of vocational rehabilitation services shall be determined on the basis of serving first those individuals with the most severe disabilities in accordance with criteria established by the State, and shall be consistent with priorities in such order of selection so determined, and outcome and service goals for serving individuals with disabilities, established in regulations prescribed by the Commissioner;

(B) provide satisfactory assurances to the Commissioner that the State has studied and considered a broad variety of means for providing services to individuals with the most severe disabilities, including the use of funds under part C of title VI to supplement funds under part B of this title to pay for the cost of services leading to supported employment; and

(C) describe—

(i) how a broad range of rehabilitation technology services will be provided at each stage of the rehabilitation process;

(ii) how a broad range of such rehabilitation technology services will be provided on a statewide basis; and

(iii) the training that will be provided to vocational rehabilitation counselors, client assistance personnel, and other related services personnel;

(6)(A) provide for such methods of administration, other than methods relating to the establishment and maintenance of personnel standards, as are found by the Commissioner to be necessary for the proper and efficient administration of the plan (including a requirement that the State agency and facilities in receipt of assistance under this title shall take affirmative action to employ and advance in employment qualified individuals with disabilities covered under, and on the same terms and conditions as set forth in, section 503); and

(B) provide satisfactory assurances that facilities used in connection with the delivery of services assisted under the plan will comply with the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968, with section 504 of this Act, and with the Americans with Disabilities Act of 1990;

(7)(A) include a description (consistent with the purposes of this Act) of a comprehensive system of personnel development, which shall include—

(i) a description of the procedures and activities the State agency will undertake to ensure an adequate supply of qualified State rehabilitation professionals and paraprofessionals for the designated State unit, including the development and maintenance of a system for determining, on an annual basis—

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[1] So in law. There are superfluous commas.

(I) the number and type of personnel that are employed by the State agency in the provision of vocational rehabilitation services, including ratios of counselors to clients; and

(II) the number and type of personnel needed by the State, and a projection of the numbers of such personnel that will be needed in 5 years, based on projections of the number of individuals to be served, the number of such personnel who are expected to retire or leave the field, and other relevant factors;

(ii) where appropriate, a description of the manner in which activities will be undertaken through this section to coordinate the system of personnel development with personnel development under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);

(iii) a description of the development and maintenance of a system of determining, on an annual basis, information on the institutions of higher education within the State that are preparing rehabilitation professionals, including—

(I) the numbers of students enrolled in such programs; and

(II) the number who graduated with certification or licensure, or with credentials to qualify for certification or licensure, during the past year;

(iv) a description of the development, updating, and implementation of a plan that—

(I) will address the current and projected vocational rehabilitation services personnel training needs for the designated State unit; and

(II) provides for the coordination and facilitation of efforts between the designated State unit and institutions of higher education (as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))) and professional associations to recruit, prepare and retain qualified personnel, including personnel from minority backgrounds, and personnel who are individuals with disabilities; and

(v) a description of the procedures and activities the State agency will undertake to ensure that all personnel employed by the designated State unit are appropriately and adequately trained and prepared, including—

(I) a system for the continuing education of rehabilitation professionals and paraprofessionals within the designated State unit, particularly with respect to rehabilitation technology; and

(II) procedures for acquiring and disseminating to rehabilitation professionals and paraprofessionals within the designated State unit significant knowledge from research and other sources, including procedures for providing training regarding the amendments to the Rehabilitation Act of 1973 made by the Rehabilitation Act Amendments of 1992;

(B) set forth policies and procedures relating to the establishment and maintenance of standards to ensure that personnel, including professionals and paraprofessionals, needed within the

State agency to carry out this part are appropriately and adequately prepared and trained, including—

(i) the establishment and maintenance of standards that are consistent with any national or State approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which such personnel are providing vocational rehabilitation services; and

(ii) to the extent such standards are not based on the highest requirements in the State applicable to a specific profession or discipline, the steps the State is taking to require the retraining or hiring of personnel within the designated State unit that meet appropriate professional requirements in the State; and

(C) contain provisions relating to the establishment and maintenance of minimum standards to ensure the availability of personnel within the designated State unit, to the maximum extent feasible, trained to communicate in the native language or mode of communication of the client;

(8) provide, at a minimum, for the provision of the vocational rehabilitation services specified in paragraphs (1) through (3) and paragraph (12) of section 103(a), and for the provision of such other services as are specified under such section after a determination that comparable services and benefits are not available under any other program, except that such a determination shall not be required—

(A) if the determination would delay the provision of such services to any individual at extreme medical risk; or

(B) prior to the provision of such services if an immediate job placement would be lost due to a delay in the provision of such comparable benefits;

(9) provide that—

(A) to the maximum extent appropriate, and consistent with the requirements of this Act, existing information available from other programs and providers (particularly information used by education officials and the Social Security Administration) and information that can be provided by the individual with a disability or the family of the individual shall be used for purposes of determining eligibility for vocational rehabilitation services and for choosing rehabilitation goals, objectives, and services;

(B) an individualized written rehabilitation program meeting the requirements of section 102 will be developed for each individual with a disability eligible for vocational rehabilitation services under this Act;

(C) such services will be provided under the plan in accordance with such program; and

(D) records of the characteristics of each applicant will be kept, specifying, as to those individuals who apply for services under this title and are determined not to be eligible therefor, the reasons for such determinations in such detail as required by the Commissioner in order for the Commissioner to analyze and evaluate annually the reasons for and numbers of such ineligibility determinations as part of the Commissioner's responsibilities under section 13, and that the State agency will at least annually categorize and analyze such reasons and numbers and report this information to the Commissioner and will, not later than 12 months after each such determination, review each such ineligibility determination in accordance with the criteria set forth in section 102;

(10)(A) provide that the State agency will make such reports in such form, containing such information (including the data described in subparagraph (C) of paragraph (9) of this subsection, periodic estimates of the population of individuals with disabilities eligible for services under this Act in such State, specifications of the number of such individuals who will be served with funds provided under this Act and the outcomes and service goals to be achieved for such individuals in each priority category specified in accordance with paragraph (5) of this subsection, and the service costs for each such category), and at such time as the Commissioner may require to carry out the functions of the Commissioner under this title, and comply with such provisions as are necessary to assure the correctness and verification of such reports; and

(B) provide that reports under subparagraph (A) will include information on—

(i) the number of such individuals who are evaluated and the number rehabilitated;

(ii) the costs of administration, counseling, provision of direct services, development of community rehabilitation programs, and other functions carried out under this Act; and

(iii) the utilization by such individuals of other programs pursuant to paragraph (11);

(11)(A) provide for interagency cooperation with, and the utilization of the services and facilities of, the State agencies administering the State's public assistance programs, other programs for individuals with disabilities, veterans programs, community mental health programs, manpower programs, and public employment offices, and the Social Security Administration of the Department of Health and Human Services, the Department of Veterans Affairs, and other Federal, State, and local public agencies providing services related to the rehabilitation of individuals with disabilities (specifically including arrangements for the coordination of services to individuals eligible for services under this Act, the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.), and the Act entitled "An Act to create a Committee on Purchases of Blind-made Products, and for other purposes", approved June 25, 1938 (commonly known as the Wagner-O'Day Act; 41 U.S.C. 46 et seq.);

(B) provide that cooperation under subparagraph (A) shall include, to the extent practicable, means for providing training to staff of the agencies described in subparagraph (A) as to the availability and benefits of, and eligibility standards for, vocational rehabilitation services, in order to enhance the opportunity of individuals receiving the services described in subparagraph (A) to obtain vocational rehabilitation services; and

(C) in providing for interagency cooperation under subparagraph (A), provide for such cooperation by means including, if appropriate—

(i) establishing interagency working groups; and

(ii) entering into formal interagency cooperative agreements that—

(I) identify policies, practices, and procedures that can be coordinated among the agencies (particularly definitions, standards for eligibility, the joint sharing and use of evaluations and assessments, and procedures for making referrals);

(II) identify available resources and define the financial responsibility of each agency for paying for necessary services (consistent with State law) and procedures for resolving disputes between agencies; and

(III) include all additional components necessary to ensure meaningful cooperation and coordination;

(12)(A) provide satisfactory assurances to the Commissioner that, in the provision of vocational rehabilitation services, maximum utilization shall be made of public or other vocational or technical training programs or other appropriate resources in the community; and

(B) provide (as appropriate) for entering into agreements with the operators of community rehabilitation programs for the provision of services for the rehabilitation of individuals with disabilities;

(13)(A) provide that vocational rehabilitation services provided under the State plan shall be available to any civil employee of the United States who is disabled while in the performance of the employee's duty on the same terms and conditions as apply to other persons, and

(B) provide that special considerations will be given to the rehabilitation under this Act of an individual with handicaps whose handicapping condition arises from a disability sustained[1] in the line of duty while such individual was performing as a public safety officer if the proximate cause of such disability was a criminal act, apparent criminal act, or hazardous condition resulting directly from the officer's performance of duties in direct connection with the enforcement, execution, and administration of law or fire prevention, firefighting, or related public safety activities;

(14) provide that no residence requirement will be imposed which excludes from services under the plan any individual who is present in the State;

(15) provide for continuing statewide studies of the needs of individuals with disabilities and how these needs may be most effectively met, including—

(A) a full needs assessment for serving individuals with severe disabilities;

(B) an assessment of the capacity and effectiveness of community rehabilitation programs, plans for improving such programs, and policies for the use thereof by the State agency;

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[1] Section 102(p)(7)(E) of Public Law 102–569 (106 Stat. 4357) provided that section 101(a)(13)(B) is amended by striking "with handicaps whose handicapping conditions arises from a disability sustained" and inserting "with a disability whose disability was sustained". The amendment cannot be executed because the matter to be striken does not appear. (Compare "conditions" and "condition".)

(C) review of the efficacy of the criteria employed with respect to ineligibility determinations described in paragraph (9)(C) of this subsection with a view toward the relative need for services to significant segments of the population of individuals with disabilities and the need for expansion of services to those individuals with the most severe disabilities; and

(D) outreach procedures to identify and serve individuals with disabilities who are minorities and individuals with disabilities who have been unserved or underserved by the vocational rehabilitation system;

(16) provide for—

(A)(i) at least annual review and reevaluation of the status of each individual with a disability placed in an extended employment setting in a community rehabilitation program (including a workshop) or other employment under section 14(c) of the Fair Labor Standards Act (29 U.S.C. 214(c)), to determine the interests, priorities, and needs of the individual for employment, or training for competitive employment, in an integrated setting in the labor market; and

(ii) input into the review and reevaluation by the individual with a disability, or, in an appropriate case, a parent, a family member, a guardian, an advocate, or an authorized representative, of the individual, if the individual requests, desires, or needs assistance;

(B) maximum efforts, including the identification of vocational rehabilitation services, reasonable accommodations, and other support services, to enable such an individual to benefit from training or to be placed in employment in an integrated setting; and

(C) services designed to promote movement from extended employment to integrated employment, including supported employment, independent living, and community participation;

(17) provide that if, under special circumstances, the State plan includes provisions for the construction of facilities for community rehabilitation programs—

(A) the Federal share of the cost of construction thereof for a fiscal year will not exceed an amount equal to 10 per centum of the State's allotment for such year,

(B) the provision of section 306 shall be applicable to such construction and such provisions shall be deemed to apply to such construction, and

(C) there shall be compliance with regulations the Commissioner shall prescribe designed to assure that no State will reduce its efforts in providing other vocational rehabilitation services (other than for the establishment of facilities for community rehabilitation programs) because its plan includes such provisions for construction;

(18) provide satisfactory assurances to the Commissioner that the State agency designated pursuant to paragraph (1) (or each State agency if two are so designated) and any sole local agency administering the plan in a political subdivision of the State will take into account, in connection with matters of general policy arising in the administration of the plan, the views of individuals and groups thereof who are recipients of vocational rehabilitation serv-

ices (or, in appropriate cases, their parents or guardians), personnel working in the field of vocational rehabilitation, providers of vocational rehabilitation services, and the Director of the client assistance program under section 112;

(19) provide satisfactory assurances to the Commissioner that the continuing studies required under paragraph (15) of this subsection, as well as an annual evaluation of the effectiveness of the program in meeting the goals and priorities set forth in the plan, will form the basis for the submission, from time to time as the Commissioner may require, of appropriate amendments to the plan, and for developing and updating the strategic plan required under part C;

(20) provide satisfactory assurances to the Commissioner that, as appropriate, the State shall actively consult with Indian tribes and tribal organizations and native Hawaiian organizations in the development of the State plan, and that, except as otherwise provided in section 130, the State shall provide vocational rehabilitation services to American Indians who are individuals with disabilities residing in the State to the same extent as the State provides such services to other significant segments of the population of individuals with disabilities residing in the State;

(21) provide that the State agency has the authority to enter into contracts with profitmaking organizations for the purpose of providing on-the-job training and related programs for individuals with disabilities under part B of title VI upon a determination by such agency that such profitmaking organizations are better qualified to provide such rehabilitation services than nonprofit agencies and organizations;

(22) provide for the establishment and maintenance of information and referral programs (the staff of which shall include, to the maximum extent feasible, interpreters for individuals who are deaf) in sufficient numbers to assure that individuals with disabilities within the State are afforded accurate vocational rehabilitation information and appropriate referrals to other Federal and State programs and activities which would benefit them;

(23)(A) provide satisfactory assurances that in the formulation of policies governing the provision of the rehabilitation services consistent with the State plan, and any revisions, that the State agency conducts public meetings throughout the State, after appropriate and sufficient notice, to allow interested groups and organizations and all segments of the public an opportunity to comment on the State plan before development of the plan by the State, (B) include a summary of such comments and the State agency's response to such comments, and (C) provide satisfactory assurances that the State agency will consult with the Director of the client assistance program under section 112 in the formulation of policies governing the provision of vocational rehabilitation services consistent with the State plan and other revisions;

(24) contain plans, policies, and procedures to be followed (including entering into a formal interagency cooperative agreement, in accordance with paragraph (11)(C)(ii), with education officials responsible for the provision of a free appropriate public education to students who are individuals with disabilities) that are designed to—

(A) facilitate the development and accomplishment of—

(i) long-term rehabilitation goals;

(ii) intermediate rehabilitation objectives; and

(iii) goals and objectives related to enabling a student to live independently before the student leaves a school setting,

to the extent the goals and objectives described in clauses (i) through (iii) are included in an individualized education program of the student, including the specification of plans for coordination with the educational agencies in the provision of transition services;

(B) facilitate the transition from the provision of a free appropriate public education under the responsibility of an educational agency to the provision of vocational rehabilitation services under the responsibility of the designated State unit, including the specification of plans for coordination with educational agencies in the provision of transition services authorized under section 103(a)(14) to an individual, consistent with the individualized written rehabilitation program of the individual; and

(C) provide that such plans, policies, and procedures will address—

(i) provisions for determining State lead agencies and qualified personnel responsible for transition services;

(ii) procedures for outreach to and identification of youth in need of such services; and

(iii) a timeframe for evaluation and followup of youth who have received such services;

(25) provide assurances satisfactory to the Secretary that the State has an acceptable plan for carrying out part C of title VI, including the use of funds under that part to supplement funds under part B of this title for the cost of services leading to supported employment;

(26) describe the manner in which on-the-job or other related personal assistance services will be provided to assist individuals with disabilities while the individuals are receiving vocational rehabilitation services;

(27) describe the manner in which cooperative agreements with private nonprofit vocational rehabilitation service providers will be established;

(28) identify the needs and utilization of community rehabilitation programs under the Act commonly known as the Wagner-O'Day Act (41 U.S.C. 46 et seq.);

(29) describe the manner in which individuals with disabilities will be given choice and increased control in determining their vocational rehabilitation goals and objectives;

(30) describe the manner in which students who are individuals with disabilities and who are not in special education programs can access and receive vocational rehabilitation services, where appropriate;

(31) describe the manner in which assistive technology devices and services will be provided, or worksite assessments will be made as part of the assessment for determining eligibility and vocational rehabilitation needs of an individual;

(32) describe the manner in which the State will modify the policies and procedures of the State based on consumer satisfaction surveys conducted by the State Rehabilitation Advisory Council;

(33) provide for coordination and working relationships with the Statewide Independent Living Council established under section 705 and independent living centers within the State;

(34) provide satisfactory assurances to the Commissioner that the State—

(A) has developed and implemented a strategic plan for expanding and improving vocational rehabilitation services for individuals with disabilities on a statewide basis in accordance with part C of this title; and

(B) will use at least 1.5 percent of the allotment of the State under part B for the uses described in section 123;

(35)(A) describe how the system for evaluating the performance of rehabilitation counselors, coordinators, and other personnel used in the State facilitates the accomplishment of the purpose and policy of this title, including the policy of serving, among others, individuals with the most severe disabilities; and

(B) provide satisfactory assurances that the system in no way impedes such accomplishment; and

(36) provide satisfactory assurances to the Commissioner that—

(A)(i) the State has established a State Rehabilitation Advisory Council that meets the criteria set forth in section 105;

(ii) the designated State agency and the designated State unit seek and seriously consider on a regular and ongoing basis advice from the Council regarding the development and implementation of the State plan and the strategic plan and amendments to the plans, and other policies and procedures of general applicability pertaining to the provision of vocational rehabilitation services in the State;

(iii) the designated State agency includes, in its State plan or an amendment to the plan, a summary of advice provided by the Council, including recommendations from the annual report of the Council, the survey of consumer satisfaction, and other reports prepared by the Council, and the response of the designated State agency to such advice and recommendations (including explanations with respect to advice and recommendations that were rejected); and

(iv) the designated State unit transmits to the Council—

(I) all plans, reports, and other information required under the Act to be submitted to the Commissioner;

(II) all policies, practices, and procedures of general applicability provided to or used by rehabilitation personnel; and

(III) copies of due process hearing decisions, which shall be transmitted in such a manner as to preserve the confidentiality of the participants in the hearings;

(B) an independent commission—

(i) is responsible under State law for overseeing the operation of the designated State agency;

(ii) is consumer-controlled by persons who—

(I) are individuals with physical or mental impairments that substantially limit major life activities; and

(II) represent individuals with a broad range of disabilities;

(iii) includes individuals representing family members, advocates, and authorized representatives of individuals with mental impairments; and

(iv) undertakes the function set forth in section 105(c)(3); or

(C) in the case of a State that, under section 101(a)(1)(A)(i), designates a State agency to administer the part of the State plan under which vocational rehabilitation services are provided for individuals who are blind and designates a separate State agency to administer the remainder of the State plan—

(i) an independent commission is responsible under State law for overseeing both such agencies and meets the requirements of subparagraph (B)(ii); or

(ii)(I) an independent commission is responsible under State law for overseeing the first agency described in this subparagraph and meets the requirements of subparagraph (B)(ii); and

(II) an independent commission is responsible under State law for overseeing the second State agency described in this subparagraph and is required by such State law to be consumer-controlled by individuals who are blind and to represent individuals who are blind.

(b) The Commissioner shall approve any plan which the Commissioner finds fulfills the conditions specified in subsection (a) of this section, and shall disapprove any plan which does not fulfill such conditions. Prior to such disapproval, the Commissioner shall notify a State of the intention to disapprove its plan, and shall afford such State reasonable notice and opportunity for hearing.

(29 U.S.C. 721)

INDIVIDUALIZED WRITTEN REHABILITATION PROGRAM

SEC. 102. (a)(1) An individual is eligible for assistance under this title if the individual—

(A) is an individual with a disability under section 7(8)(A); and

(B) requires vocational rehabilitation services to prepare for, enter, engage in, or retain gainful employment.

(2) An individual who has a disability or is blind as determined pursuant to title II or title XVI of the Social Security Act (42 U.S.C. 401 et seq. and 1381 et seq.) shall be considered to have—

(A) a physical or mental impairment which for such individual constitutes or results in a substantial impediment to employment under section 7(8)(A)(i); and

(B) a severe physical or mental impairment which seriously limits one or more functional capacities in terms of an employment outcome under section 7(15)(A)(i).

(3) Determinations made by officials of other agencies, particularly the education officials described in section 101(a)(24), regard-

ing whether an individual satisfies one or more factors relating to whether an individual is an individual with a disability under section 7(8)(A) or an individual with a severe disability under section 7(15)(A), shall be used (to the extent appropriate and available and consistent with the requirements under this Act) for making such determinations under this Act.

(4)(A) It shall be presumed that an individual can benefit in terms of an employment outcome from vocational rehabilitation services under section 7(8)(A)(ii), unless the designated State unit can demonstrate by clear and convincing evidence that such individual is incapable of benefiting from vocational rehabilitation services in terms of an employment outcome.

(B) In making the demonstration required under subparagraph (A) with respect to cases in which the issue concerns the severity of the disability of an individual, the designated State unit shall first conduct an extended evaluation by providing the services described in subparagraph (C)(iii)(I), and conducting the assessment described in subparagraph (C)(iii)(II), of section 7(22).

(5)(A) The designated State unit shall determine whether an individual is eligible for vocational rehabilitation services under this title within a reasonable period of time, not to exceed 60 days after the individual has submitted an application to receive the services unless—

(i) the designated State unit notifies the individual that exceptional and unforeseen circumstances beyond the control of the agency preclude the agency from completing the determination within the prescribed time and the individual agrees that an extension of time is warranted; or

(ii) such an extended evaluation is required.

(B) The determination of eligibility shall be based on the review of existing data described in section 7(22)(A)(i), and, to the extent necessary, the preliminary assessment described in section 7(22)(A)(iii).

(6) The designated State unit shall ensure that a determination of ineligibility made with respect to an individual prior to the initiation of an individualized written rehabilitation program, based on the review, and to the extent necessary, the preliminary assessment, shall include specification of—

(A) the reasons for such a determination;

(B) the rights and remedies available to the individual, including, if appropriate, recourse to the processes set forth in subsections (b)(2) and (d); and

(C) the availability of services provided by the client assistance program under section 112 to the individual.

(b)(1)(A) As soon as a determination has been made that an individual is eligible for vocational rehabilitation services, the designated State unit shall complete an assessment for determining eligibility and vocational rehabilitation needs described in subparagraphs (B) and (C) of section 7(22) (if such assessment is necessary) and ensure that—

(i) an individualized written rehabilitation program is jointly developed, agreed upon, and signed by—

(I) such eligible individual (or, in an appropriate case, a parent, a family member, a guardian, an advocate, or an authorized representative, of such individual); and

(II) the vocational rehabilitation counselor or coordinator; and

(ii) such program meets the requirements set forth in subparagraph (B).

(B) Each individualized written rehabilitation program shall—

(i) be designed to achieve the employment objective of the individual, consistent with the unique strengths, resources, priorities, concerns, abilities, and capabilities, of the individual;

(ii) include a statement of the long-term rehabilitation goals based on the assessment for determining eligibility and vocational rehabilitation needs described in section 7(22)(B), including an assessment of career interests, for the individual, which goals shall, to the maximum extent appropriate, include placement in integrated settings;

(iii) include a statement of the intermediate rehabilitation objectives related to the attainment of such goals, determined through such assessment carried out in the most individualized and integrated setting (consistent with the informed choice of the individual);

(iv)(I) include a statement of the specific vocational rehabilitation services to be provided, and the projected dates for the initiation and the anticipated duration of each such service;

(II) if appropriate, include a statement of the specific rehabilitation technology services to be provided to assist in the implementation of intermediate rehabilitation objectives and long-term rehabilitation goals for the individual; and

(III) if appropriate, include a statement of the specific on-the-job and related personal assistance services to be provided to the individual, and, if appropriate and desired by the individual, the training in managing, supervising, and directing personal assistance services to be provided to the individual;

(v) include an assessment of the expected need for postemployment services and, if appropriate, extended services;

(vi) provide for—

(I) a reassessment of the need for postemployment services and, if appropriate, extended services prior to the point of successful rehabilitation, in accordance with this subsection; and

(II) if appropriate, the development of a statement detailing how such services shall be provided or arranged through cooperative agreements with other service providers;

(vii) include objective criteria and an evaluation procedure and schedule for determining whether such goals and objectives are being achieved;

(viii) include the terms and conditions under which goods and services described above will be provided to the individual in the most integrated settings;

(ix) identify the entity or entities that will provide the vocational rehabilitation services and the process used to provide or procure such services;

(x) include a statement by the individual, in the words of the individual (or, if appropriate, in the words of a parent, a family member, a guardian, an advocate, or an authorized representative, of the individual), describing how the individual was informed about and involved in choosing among alternative goals, objectives, services, entities providing such services, and methods used to provide or procure such services;

(xi) include, if necessary, an amendment specifying—

(I) the reasons that an individual for whom a program has been prepared is no longer eligible for vocational rehabilitation services; and

(II) the rights and remedies available to such an individual including, if appropriate, recourse to the processes set forth in subsections (b)(2) and (d);

(xii) set forth the rights and remedies available to such an individual including, if appropriate, recourse to the processes set forth in subsections (b)(2) and (d);

(xiii) provide a description of the availability of a client assistance program established pursuant to section 112;

(xiv) to the maximum extent possible, be provided in the native language, or mode of communication, of the individual, or, in an appropriate case, of a parent, a family member, a guardian, an advocate, or an authorized representative, of such individual; and

(xv) include information identifying other related services and benefits provided pursuant to any Federal, State, or local program that will enhance the capacity of the individual to achieve the vocational objectives of the individual.

(C) The designated State unit shall furnish a copy of the individualized written rehabilitation program and amendments to the program to the individual with a disability or, in an appropriate case, a parent, a family member, a guardian, an advocate, or an authorized representative, of the individual.

(2) Each individualized written rehabilitation program shall be reviewed annually, at which time such individual (or, in appropriate cases, the parents or guardian of the individual) will be afforded an opportunity to review such program and jointly redevelop and agree to its terms. Any revisions or amendments to the program resulting from such review shall be incorporated into or affixed to such program. Such revisions or amendments shall not take effect until agreed to and signed by the individual with a disability, or, if appropriate, by a parent, a family member, a guardian, an advocate, or an authorized representative, of such individual. Each individualized written rehabilitation program shall be revised as needed.

(c) The Director of the designated State unit shall also ensure that (1) in making any determination of ineligibility referred to in subsection (a) of this section, or in developing and carrying out the individualized written rehabilitation program required by section 101 in the case of each individual with a disability, emphasis is placed upon the determination and achievement of a vocational goal for such individual, (2) a decision that such an individual is not capable of achieving such a goal and thus is not eligible for vocational rehabilitation services provided with assistance under this part, is made only in full consultation with such individual (or, in appropriate cases, such individual's parents or guardians), and only upon the certification, as an amendment to such written program, or as a part of the specification of reasons for an ineligibility determination, as appropriate, that the preliminary diagnosis or assessment for determining eligibility and vocational rehabilitation needs described in subparagraphs (B) and (C) of section 7(22), as appropriate, has demonstrated that such individual is not then capable of achieving such a goal, and (3) any such decision, as an amendment to such written program, shall be reviewed at least annually in accordance with the procedure and criteria established in this section.

(d)(1) Except as provided in paragraph (4), the Director of any designated State unit shall establish procedures for the review of determinations made by the rehabilitation counselor or coordinator under this section, upon the request of an individual with a disability (or, in appropriate cases, such individual's parents or guardian).

(2)(A) Such review procedures shall provide an opportunity to such individuals for the submission of additional evidence and information to an impartial hearing officer who shall make a decision based on the provisions of the State plan approved under section 101(a).

(B) The impartial hearing officer shall be selected to hear a particular case—

(i) on a random basis; or

(ii) by agreement between—

(I) the Director of the designated State unit and the individual with a disability; or

(II) in an appropriate case, the Director and a parent, a family member, a guardian, an advocate, or an authorized representative, of such individual.

(C) The impartial hearing officer shall be selected from among a pool of qualified persons identified jointly by—

(i) the designated State unit; and

(ii)(I) the members of the State Rehabilitation Advisory Council established under section 105 who were appointed under one of subparagraphs (E) through (H) of section 105(b)(1);

(II) the commission described in subparagraph (B) or (C)(i) of section 101(a)(36); or

(III) the commissions described in section 101(a)(36)(C)(ii).

(3)(A) Within 20 days of the mailing of the decision to the individual with a disability (or, in appropriate cases, such individual's parents or guardian), the Director shall notify such individuals of the intent to review such decision in whole or in part.

(B) If the Director decides to review the decision, such individuals shall be provided an opportunity for the submission of additional evidence and information relevant to a final decision.

(C)(i) The Director may not overturn or modify a decision of an impartial hearing officer, or part of such a decision, that supports the position of the individual unless the Director concludes, based on clear and convincing evidence, that the decision of the independent hearing officer is clearly erroneous on the basis of being contrary to Federal or State law, including policy.

(ii) A final decision shall be made in writing by the Director and shall include a full report of the findings and the grounds for such decision.

(iii) Upon making a final decision, the Director shall provide a copy of such decision to such individual.

(D) Except as provided in paragraph (4), the Director may not delegate responsibility to make any such final decision to any other officer or employee of the designated State unit.

(4)(A) A fair hearing board, established by a State before January 1, 1985, and authorized under State law to review determinations under this Act, is authorized to carry out the responsibilities of the Director under this subsection.

(B) The provisions of paragraphs (1) through (3) of this subsection shall not apply to any State to which subparagraph (A) of this paragraph applies.

(5) Unless the individual with a disability so requests, or, in an appropriate case, a parent, a family member, a guardian, an advocate, or an authorized representative, of such individual so requests, pending a final determination of such hearing or other final resolution under this subsection, the designated State unit shall not institute a suspension, reduction, or termination of services being provided under the individualized written rehabilitation program, unless such services have been obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the individual with a disability.

(6)(A) The Director shall collect data described in subparagraph (B) and prepare and submit to the Commissioner a report containing such data. For the report submitted on or before February 1, 1988, the Commissioner shall prepare a summary of the information furnished under this paragraph and include the summary in the annual report submitted under section 13.

(B) The data required to be collected under this paragraph shall include—

(1)[1] a description of State procedures for review;

(2)[1] the number of appeals to the independent hearing officer and the State Director, including the type of complaint and the issues involved;

(3)[1] the number of decisions by the State Director reversing in whole or in part the decision of the impartial hearing officer; and

(4)[1] the number of decisions affirming the position of the individual with a disability assisted through the client assistance program.

(29 U.S.C. 722)

SCOPE OF VOCATIONAL REHABILITATION SERVICES

SEC. 103. (a) Vocational rehabilitation services provided under this Act are any goods or services necessary to render an individual with a disability employable, including, but not limited to, the following:

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[1] So in law. Paragraphs (1) through (4) probably should be redesignated as clauses (i) through (iv).

(1) an assessment for determining eligibility and vocational rehabilitation needs by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology;

(2) counseling, guidance, and work-related placement services for individuals with disabilities, including job search assistance, placement assistance, job retention services, personal assistance services, and followup, follow-along, and specific postemployment services necessary to assist such individuals to maintain, regain, or advance in employment;

(3) vocational and other training services for individuals with disabilities, which shall include personal and vocational adjustment, books, or other training materials, and such services to the families of such individuals as are necessary to the adjustment or rehabilitation of such individuals, except that no training services in institutions of higher education shall be paid for with funds under this title unless maximum efforts have been made to secure grant assistance, in whole or in part, from other sources to pay for such training;

(4) physical and mental restoration services, including, but not limited to, (A) corrective surgery or therapeutic treatment necessary to correct or substantially modify a physical or mental condition which is stable or slowly progressive and constitutes a substantial impediment to employment, but is of such nature that such correction or modification may reasonably be expected to eliminate or reduce such impediment to employment within a reasonable length of time, (B) necessary hospitalization in connection with surgery or treatment, (C) prosthetic and orthotic devices, (D) eyeglasses and visual services as prescribed by a physician skilled in the diseases of the eye or by an optometrist, whichever the individual may select, (E) special services (including transplantation and dialysis), artificial kidneys, and supplies necessary for the treatment of individuals with end-stage renal disease, and (F) diagnosis and treatment for mental and emotional disorders by a physician or licensed psychologist in accordance with State licensure laws;

(5) maintenance for additional costs incurred while participating in rehabilitation;

(6) interpreter services for individuals who are deaf, and reader services for those individuals determined to be blind after an examination by a physician skilled in the diseases of the eye or by an optometrist, whichever the individual may select;

(7) recruitment and training services for individuals with disabilities to provide them with new employment opportunities in the fields of rehabilitation, health, welfare, public safety, and law enforcement, and other appropriate service employment;

(8) rehabilitation teaching services and orientation and mobility services for individuals who are blind;

(9) occupational licenses, tools, equipment, and initial stocks and supplies;

(10) transportation in connection with the rendering of any vocational rehabilitation service;

(11) telecommunications, sensory, and other technological aids and devices;

(12) rehabilitation technology services;

(13) referral and other services designed to assist individuals with disabilities in securing needed services from other agencies through agreements developed under section 101(a)(11), if such services are not available under this Act;

(14) transition services that promote or facilitate the accomplishment of long-term rehabilitation goals and intermediate rehabilitation objectives;

(15) on-the-job or other related personal assistance services provided while an individual with a disability is receiving services described in this section; and

(16) supported employment services.

(b) Vocational rehabilitation services, when provided for the benefit of groups of individuals, may also include the following:

(1) In the case of any type of small business operated by individuals with the most severe disabilities the operation of which can be improved by management services and supervision provided by the State agency, the provision of such services and supervision, along or together with the acquisition by the State agency of vending facilities or other equipment and initial stocks and supplies.

(2) The establishment, development, or improvement of community rehabilitation programs, including, under special circumstances, the construction of a facility, and the provision of other services (including services offered at community rehabilitation programs) which promise to contribute substantially to the rehabilitation of a group of individuals but which are not related directly to the individualized rehabilitation written program of any one individual with a disability. Such programs shall be used to provide services that promote integration and competitive employment.

(3) The use of existing telecommunications systems (including telephone, television, satellite, radio, and other similar systems) which have the potential for substantially improving service delivery methods, and the development of appropriate programing to meet the particular needs of individuals with disabilities.

(4) The use of services providing recorded material for individuals who are blind and captioned films or video cassettes for individuals who are deaf.

(5) Technical assistance and support services to businesses that are not subject to title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) and that are seeking to employ individuals with disabilities.

(29 U.S.C. 723)

NON-FEDERAL SHARE FOR CONSTRUCTION

SEC. 104. For the purpose of determining the amount of payments to States for carrying out part B of this title (or to an Indian tribe under part D of this title), the non-Federal share, subject to such limitations and conditions as may be prescribed in regulations by the Commissioner, shall include contributions of funds made by any private agency, organization, or individual to a State or local agency to assist in meeting the costs of establishment of a community rehabilitation program or construction, under special circumstances, of a facility for such a program, which would be regarded as State or local funds except for the condition, imposed by the contributor, limiting use of such funds to establishment of such a program or construction of such a facility.

(29 U.S.C. 724)

SEC. 105. STATE REHABILITATION ADVISORY COUNCIL.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Except as provided in subparagraph (B) or (C) of section 101(a)(36), to be eligible to receive financial assistance under this title a State shall establish a State Rehabilitation Advisory Council (referred to in this section as the "Council") in accordance with this section.

(2) SEPARATE AGENCY FOR INDIVIDUALS WHO ARE BLIND.—A State that designates a State agency to administer the part of the State plan under which vocational rehabilitation services are provided for individuals who are blind under section 101(a)(1)(A)(i) may establish a separate Council in accordance with this section to perform the duties of such a Council with respect to such State agency.

(b) COMPOSITION AND APPOINTMENT.—

(1) COMPOSITION.—The Council shall be composed of—

(A) at least one representative of the Statewide Independent Living Council established under section 705, which representative may be the chairperson or other designee of the Council;

(B) at least one representative of a parent training and information center established pursuant to section 631(c)(9) of the Individuals with Disabilities Education Act (20 U.S.C. 1431(c)(9));

(C) at least one representative of the client assistance program established under section 112;

(D) at least one vocational rehabilitation counselor, with knowledge of and experience with vocational rehabilitation programs, who shall serve as an ex officio, nonvoting member of the Council if the counselor is an employee of the designated State agency;

(E) at least one representative of community rehabilitation program service providers;

(F) four representatives of business, industry, and labor;

(G) representatives of disability advocacy groups representing a cross section of—

(i) individuals with physical, cognitive, sensory, and mental disabilities; and

(ii) parents, family members, guardians, advocates, or authorized representatives of individuals with disabilities who have difficulty in representing themselves or are unable due to their disabilities to represent themselves; and

(H) current or former applicants for, or recipients of, vocational rehabilitation services.

(2) EX OFFICIO MEMBER.—The Director of the designated State unit shall be an ex officio member of the Council.

(3) APPOINTMENT.—Members of the Council shall be appointed by the Governor or the appropriate entity within the State responsible for making appointments. The appointing authority shall select members after soliciting recommendations from representatives of organizations representing a broad range of individuals with disabilities and organizations interested in individuals with disabilities.

(4) QUALIFICATIONS.—A majority of Council members shall be persons who are—

(A) individuals with disabilities described in section 7(8)(B); and

(B) not employed by the designated State unit.

(5) CHAIRPERSON.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Council shall select a chairperson from among the membership of the Council.

(B) DESIGNATION BY GOVERNOR.—In States in which the Governor does not have veto power pursuant to State law, the Governor shall designate a member of the Council to serve as the chairperson of the Council or shall require the Council to so designate such a member.

(6) TERMS OF APPOINTMENT.—

(A) LENGTH OF TERM.—Each member of the Council shall serve for a term of not more than 3 years, except that—

(i) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

(ii) the terms of service of the members initially appointed shall be (as specified by the appointing authority) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

(B) NUMBER OF TERMS.—No member of the Council may serve more than two consecutive full terms.

(7) VACANCIES.—Any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

(c) FUNCTIONS OF COUNCIL.—The Council shall—

(1) review, analyze, and advise the designated State unit regarding the performance of the responsibilities of the unit under this title, particularly responsibilities relating to—

(A) eligibility (including order of selection);

(B) the extent, scope, and effectiveness of services provided; and

(C) functions performed by State agencies that affect or that potentially affect the ability of individuals with disabilities in achieving rehabilitation goals and objectives under this title;

(2) advise the designated State agency and the designated State unit, and, at the discretion of the designated State agency, assist in the preparation of applications, the State plan, the strategic plan and amendments to the plans, reports, needs assessments, and evaluations required by this title;

(3) to the extent feasible, conduct a review and analysis of the effectiveness of, and consumer satisfaction with—

(A) the functions performed by State agencies and other public and private entities responsible for performing functions for individuals with disabilities; and

(B) vocational rehabilitation services—

(i) provided, or paid for from funds made available, under this Act or through other public or private sources; and

(ii) provided by State agencies and other public and private entities responsible for providing vocational rehabilitation services to individuals with disabilities;

(4) prepare and submit an annual report to the Governor or appropriate State entity and the Commissioner on the status of vocational rehabilitation programs operated within the State, and make the report available to the public;

(5) coordinate with other councils within the State, including the Statewide Independent Living Council established under section 705, the advisory panel established under section 613(a)(12) of the Individuals with Disabilities Education Act (20 U.S.C. 1413(a)(12)), the State Planning Council described in section 124 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6024), and the State mental health planning council established under section 1916(e) of the Public Health Service Act (42 U.S.C. 300x–4(e));

(6) advise the State agency designated under section 101(a)(1) and provide for coordination and the establishment of working relationships between the State agency and the Statewide Independent Living Council and centers for independent living within the State; and

(7) perform such other functions, consistent with the purpose of this title, as the State Rehabilitation Advisory Council determines to be appropriate, that are comparable to the other functions performed by the Council.

(d) RESOURCES.—

(1) PLAN.—The Council shall prepare, in conjunction with the designated State unit, a plan for the provision of such resources, including such staff and other personnel, as may be necessary to carry out the functions of the Council under this section. The resource plan shall, to the maximum extent possible, rely on the use of resources in existence during the period of implementation of the plan.

(2) RESOLUTION OF DISAGREEMENTS.—To the extent that there is a disagreement between the Council and the designated State unit in regard to the resources necessary to carry out the functions of the Council as set forth in this section, the

disagreement shall be resolved by the Governor or appointing agency consistent with paragraph (1).

(3) SUPERVISION AND EVALUATION.—Each Council shall, consistent with State law, supervise and evaluate such staff and other personnel as may be necessary to carry out its functions under this section.

(4) PERSONNEL CONFLICT OF INTEREST.—While assisting the Council in carrying out its duties, staff and other personnel shall not be assigned duties by the designated State unit or any other agency or office of the State, that would create a conflict of interest.

(e) CONFLICT OF INTEREST.—No member of the Council shall cast a vote on any matter that would provide direct financial benefit to the member or otherwise give the appearance of a conflict of interest under State law.

(f) MEETINGS.—The Council shall convene at least 4 meetings a year in such places as it determines to be necessary to conduct Council business and conduct such forums or hearings as the Council considers appropriate. The meetings, hearings, and forums shall be publicly announced. The meetings shall be open and accessible to the general public unless there is a valid reason for an executive session.

(g) COMPENSATION AND EXPENSES.—The Council may use funds appropriated under this title to reimburse members of the Council for reasonable and necessary expenses of attending Council meetings and performing Council duties (including child care and personal assistance services), and to pay compensation to a member of the Council, if such member is not employed or must forfeit wages from other employment, for each day the member is engaged in performing the duties of the Council.

(h) HEARINGS AND FORUMS.—The Council is authorized to hold such hearings and forums as the Council may determine to be necessary to carry out the duties of the Council.

(i) USE OF EXISTING COUNCILS.—To the extent that a State has established a Council before September 30, 1992, that is comparable to the Council described in this section, such established Council shall be considered to be in compliance with this section. Within 1 year after the date of enactment of the Rehabilitation Act Amendments of 1992, such State shall establish a Council that complies in full with this section.

(29 U.S.C. 725)

SEC. 106. EVALUATION STANDARDS AND PERFORMANCE INDICATORS.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Commissioner shall, not later than September 30, 1994, establish and publish evaluation standards and performance indicators for the vocational rehabilitation program under this title.

(2) MEASURES.—The standards and indicators shall include outcome and related measures of program performance that facilitate and in no way impede the accomplishment of the purpose and policy of this title.

(3) COMMENT.—The standards and indicators shall be developed with input from State vocational rehabilitation agen-

cies, related professional and consumer organizations, recipients of vocational rehabilitation services, and other interested parties. The Commissioner shall publish in the Federal Register a notice of intent to regulate regarding the development of proposed standards and indicators. Proposed standards and indicators shall be published in the Federal Register for review and comment. Final standards and indicators shall be published in the Federal Register.

(b) COMPLIANCE.—

(1) STATE REPORTS.—In accordance with regulations established by the Secretary, each State shall report to the Commissioner after the end of each fiscal year the extent to which the State is in compliance with the standards and indicators.

(2) PROGRAM IMPROVEMENT.—

(A) PLAN.—If the Commissioner determines that the performance of any State is below established standards, the Commissioner shall provide technical assistance to the State and the State and the Commissioner shall jointly develop a program improvement plan outlining the specific actions to be taken by the State to improve program performance.

(B) REVIEW.—The Commissioner shall—

(i) review the program improvement efforts of the State on a biannual basis and, if necessary, request the State to make further revisions to the plan to improve performance; and

(ii) continue to conduct such reviews and request such revisions until the State sustains satisfactory performance over a period of more than 1 year.

(c) WITHHOLDING.—If the Commissioner determines that a State whose performance falls below the established standards has failed to enter into a program improvement plan, or is not complying substantially with the terms and conditions of such a program improvement plan, the Commissioner shall, consistent with subsections (c) and (d) of section 107, reduce or make no further payments to the State under this program, until the State has entered into an approved program improvement plan, or satisfies the Commissioner that the State is complying substantially with the terms and conditions of such a program improvement plan, as appropriate.

(d) REPORT TO CONGRESS.—Beginning in fiscal year 1996, the Commissioner shall include in each annual report to the Congress under section 13 an analysis of program performance, including relative State performance, based on the standards and indicators.

(29 U.S.C. 726)

SEC. 107. MONITORING AND REVIEW.

(a) IN GENERAL.—

(1) DUTIES.—In carrying out the duties of the Commissioner under this title, the Commissioner shall—

(A) provide for the annual review and periodic on-site monitoring of programs under this title; and

(B) determine whether, in the administration of the State plan, a State is complying substantially with the provisions of such plan and with evaluation standards and performance indicators established under section 106.

(2) PROCEDURES FOR REVIEWS.—In conducting reviews under this section the Commissioner shall consider, at a minimum—

(A) State policies and procedures;

(B) guidance materials;

(C) decisions resulting from hearings conducted in accordance with due process;

(D) strategic plans and updates;

(E) plans and reports prepared under section 106(b);

(F) consumer satisfaction surveys described in section 101(a)(32);

(G) information provided by the State Rehabilitation Advisory Council established under section 105;

(H) reports; and

(I) budget and financial management data.

(3) PROCEDURES FOR MONITORING.—In conducting monitoring under this section the Commissioner shall conduct—

(A) on-site visits, including on-site reviews of records to verify that the State is following requirements regarding the order of selection set forth in section 101(a)(5)(A);

(B) public hearings and other strategies for collecting information from the public;

(C) meetings with the State Rehabilitation Advisory Council;

(D) reviews of individual case files, including individualized written rehabilitation programs and ineligibility determinations; and

(E) meetings with rehabilitation counselors and other personnel.

(4) AREAS OF INQUIRY.—In conducting the review and monitoring, the Commissioner shall examine—

(A) the eligibility process;

(B) the provision of services, including, if applicable, the order of selection;

(C) whether the personnel evaluation system described in section 101(a)(35) facilitates and does not impede the accomplishments of the program;

(D) such other areas as may be identified by the public or through meetings with the State Rehabilitation Advisory Council; and

(E) such other areas of inquiry as the Commissioner may consider appropriate.

(b) TECHNICAL ASSISTANCE.—The Commissioner shall—

(1) provide technical assistance to programs under this title regarding improving the quality of vocational rehabilitation services provided; and

(2) provide technical assistance and establish a corrective action plan for a program under this title if the Commissioner finds that the program fails to comply substantially with the provisions of the State plan, or with evaluation standards or performance indicators established under section 106, in order to ensure that such failure is corrected as soon as practicable.

(c) Failure To Comply With Plan.—

(1) Withholding payments.—Whenever the Commissioner, after providing reasonable notice and an opportunity for a hearing to the State agency administering or supervising the administration of the State plan approved under section 101, finds that—

(A) the plan has been so changed that it no longer complies with the requirements of section 101(a); or

(B) in the administration of the plan there is a failure to comply substantially with any provision of such plan or with an evaluation standard or performance indicator established under section 106,

the Commissioner shall notify such State agency that no further payments will be made to the State under this title (or, in the discretion of the Commissioner, that such further payments will be reduced, in accordance with regulations the Commissioner shall prescribe, or that further payments will not be made to the State only for the projects under the parts of the State plan affected by such failure), until the Commissioner is satisfied there is no longer any such failure.

(2) Period.—Until the Commissioner is so satisfied, the Commissioner shall make no further payments to such State under this title (or shall reduce payments or limit payments to projects under those parts of the State plan in which there is no such failure).

(3) Disbursal of withheld funds.—The Commissioner may, in accordance with regulations the Secretary shall prescribe, disburse any funds withheld from a State under paragraph (1) to any public or nonprofit private organization or agency within such State or to any political subdivision of such State submitting a plan meeting the requirements of section 101(a). The Commissioner may not make any payment under this paragraph unless the entity to which such payment is made has provided assurances to the Commissioner that such entity will contribute, for purposes of carrying out such plan, the same amount as the State would have been obligated to contribute if the State received such payment.

(d) Review.—

(1) Petition.—Any State that is dissatisfied with a final determination of the Commissioner under section 101(b) or subsection (c) may file a petition for judicial review of such determination in the United States Court of Appeals for the circuit in which the State is located. Such a petition may be filed only within the 30-day period beginning on the date that notice of such final determination was received by the State. The clerk of the court shall transmit a copy of the petition to the Commissioner or to any officer designated by the Commissioner for that purpose. In accordance with section 2112 of title 28, United States Code, the Commissioner shall file with the court a record of the proceeding on which the Commissioner based the determination being appealed by the State. Until a record is so filed, the Commissioner may modify or set aside any determination made under such proceedings.

(2) SUBMISSIONS AND DETERMINATIONS.—If, in an action under this subsection to review a final determination of the Commissioner under section 101(b) or subsection (c), the petitioner or the Commissioner applies to the court for leave to have additional oral submissions or written presentations made respecting such determination, the court may, for good cause shown, order the Commissioner to provide within 30 days an additional opportunity to make such submissions and presentations. Within such period, the Commissioner may revise any findings of fact, modify or set aside the determination being reviewed, or make a new determination by reason of the additional submissions and presentations, and shall file such modified or new determination, and any revised findings of fact, with the return of such submissions and presentations. The court shall thereafter review such new or modified determination.

(3) STANDARDS OF REVIEW.—

(A) IN GENERAL.—Upon the filing of a petition under paragraph (1) for judicial review of a determination, the court shall have jurisdiction—

(i) to grant appropriate relief as provided in chapter 7 of title 5, United States Code, except for interim relief with respect to a determination under subsection (c); and

(ii) except as otherwise provided in subparagraph (B), to review such determination in accordance with chapter 7 of title 5, United States Code.

(B) SUBSTANTIAL EVIDENCE.—Section 706 of title 5, United States Code, shall apply to the review of any determination under this subsection, except that the standard for review prescribed by paragraph (2)(E) of such section 706 shall not apply and the court shall hold unlawful and set aside such determination if the court finds that the determination is not supported by substantial evidence in the record of the proceeding submitted pursuant to paragraph (1), as supplemented by any additional submissions and presentations filed under paragraph (2).

(29 U.S.C. 727)

SEC. 108. EXPENDITURE OF CERTAIN AMOUNTS.

(a) EXPENDITURE.—Amounts described in subsection (b) may not be expended by a State for any purpose other than carrying out programs for which the State receives financial assistance under this title, under part C of title VI, or under title VII.

(b) AMOUNTS.—The amounts referred to in subsection (a) are amounts provided to a State under the Social Security Act (42 U.S.C. 301 et seq.) as reimbursement for the expenditure of payments received by the State from allotments under section 110 of this Act.

(29 U.S.C. 728)

SEC. 109. TRAINING OF EMPLOYERS WITH RESPECT TO AMERICANS WITH DISABILITIES ACT OF 1990.

A State may expend payments received under section 111—

(1) to carry out a program to train employers with respect to compliance with the requirements of title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.); and

(2) to inform employers of the existence of the program and the availability of the services of the program.

(29 U.S.C. 728a)

Part B—Basic Vocational Rehabilitation Services

STATE ALLOTMENTS

Sec. 110. (a)(1) Subject to the provisions of subsection (d), for each fiscal year beginning before October 1, 1978, each State shall be entitled to an allotment of an amount bearing the same ratio to the amount authorized to be appropriated under section 100(b)(1) for allotment under this section as the product of (A) the population of the State, and (B) the square of its allotment percentage, bears to the sum of the corresponding products for all the States.

(2)(A) For each fiscal year beginning on or after October 1, 1978, each State shall be entitled to an allotment in an amount equal to the amount such State received under paragraph (1) for the fiscal year ending September 30, 1978, and an additional amount determined pursuant to subparagraph (B) of this paragraph.

(B) For each fiscal year beginning on or after October 1, 1978, each State shall be entitled to an allotment, from any amount authorized to be appropriated for such fiscal year under section 100(b)(1)(A) for allotment under this section in excess of the amount appropriated under section 100(b)(1)(A) for the fiscal year ending September 30, 1978, in an amount equal to the sum of—

(i) an amount bearing the same ratio to 50 percent of such excess amount as the product of the population of the State and the square of its allotment percentage bears to the sum of the corresponding products for all the States; and

(ii) an amount bearing the same ratio to 50 percent of such excess amount as the product of the population of the State and its allotment percentage bears to the sum of the corresponding products for all the States.

(3) The sum of the payment to any State (other than Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Republic of Palau) under this subsection for any fiscal year which is less than one-third of 1 percent of the amount appropriated under section 100(b)(1)(A), or $3,000,000, whichever is greater, shall be increased to that amount, the total of the increases thereby required being derived by proportionately reducing the allotment to each of the remaining such States under this subsection, but with such adjustments as may be necessary to prevent the sum of the allotments made under this subsection to any such remaining State from being thereby reduced to less than that amount.

(4) For each fiscal year beginning on or after October 1, 1984, for which any amount is appropriated pursuant to section 100(b)(1)(B), each State shall receive an allocation (from such appropriated amount) in addition to the allotment to which such State is entitled under paragraphs (2) and (3) of this subsection.

Such additional allocation shall be an amount which bears the same ratio to the amount so appropriated as that State's allotment under paragraphs (2) and (3) of this subsection bears to the sum of such allotments of all the States.

(5) The Republic of Palau may receive allotments or allocations under this section only until the Compact of Free Association with Palau takes effect.

(b)(1) If the payment to a State under section 111(a) for a fiscal year is less than the total payments such State received under section 2 of the Vocational Rehabilitation Act for the fiscal year ending June 30, 1973, such State shall be entitled to an additional payment (subject to the same terms and conditions applicable to other payments under this part) equal to the difference between such payment under section 111(a) and the amount so received by it.

(2) If a State receives as its Federal share under section 111(a) for any fiscal year less than the applicable Federal share[1] of the expenditure of such State for fiscal year 1972 for vocational rehabilitation services under the plan for such State approved under section 101 (including any amount expended by such State for the administration of the State plan but excluding any amount expended by such State from non-Federal sources for construction under such plan), such State shall be entitled to an additional payment for such fiscal year, subject to the same terms and conditions applicable to other payments under this part, equal to the difference between such payment under section 111(a) and an amount equal to the applicable Federal share[1] of such expenditure for vocational rehabilitation services.

(3) Any payment attributable to the additional payment to a State under this subsection shall be made only from appropriations specifically made to carry out this subsection, and such additional appropriations are hereby authorized.

(c)(1) Not later than forty-five days prior to the end of the fiscal year, the Commissioner shall determine, after reasonable opportunity for the submission to the Commissioner of comments by the State agency administering or supervising the program established under this title, that any payment of an allotment to a State under section 111(a) for any fiscal year will not be utilized by such State in carrying out the purposes of this title.

(2) As soon as practicable but not later than the end of the fiscal year, the Commissioner shall make such amount available for carrying out the purposes of this title to one or more other States to the extent the Commissioner determines such other State will be able to use such additional amount during that fiscal year or to pay for initial expenditures during the subsequent fiscal year for carrying out such purposes.

(3) For the purposes of this part, any amount made available to a State for any fiscal year pursuant to this subsection shall be regarded as an increase of such State's allotment (as determined under the preceding provisions of this section) for such year.

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[1] Section 103(c)(2) of Public Law 99–506 struck out "80 percent" both places such term appeared and inserted "the applicable Federal share". This amendment took effect October 1, 1988.

(4) If the Commissioner determines, under paragraph (1), that any payment of an allotment to a State under section 111(a) for any fiscal year will not be utilized by such State in carrying out the purposes of this title, the payment shall remain available for reallotment to other States until reallotted.

(d)(1) For fiscal year 1987 and for each subsequent fiscal year, the Commissioner shall reserve from the amount appropriated under section 100(b)(1) for allotment under this section a sum, determined under paragraph (2), to carry out the purposes of part D of this title.

(2) The sum referred to in paragraph (1) shall be, as determined by the Secretary—

(A) not less than one-third of one percent and not more than 1.5 percent of the amount under paragraph (1), for fiscal years 1993 and 1994; and

(B) not less than one-half of one percent and not more than 1.5 percent of the amount under paragraph (1), for fiscal years 1995, 1996, and 1997.

(29 U.S.C. 730)

PAYMENTS TO STATES

SEC. 111. (a)(1) Except as provided in paragraph (2), from each State's allotment under this part for any fiscal year, the Commissioner shall pay to a State an amount equal to the Federal share of the cost of vocational rehabilitation services under the plan for that State approved under section 101, including expenditures for the administration of the State plan and development and implementation of the strategic plan as provided in section 101(a)(34)(A). Any State that receives such an amount shall expend, for development and implementation of the strategic plan, not less than the percentage of the allotment of the State referred to in section 101(a)(34)(B).

(2)(A) The total of payments under paragraph (1) to a State for a fiscal year may not exceed its allotment under subsection (a) of section 110 for such year and such payments shall not be made in an amount which would result in a violation of the provisions of the State plan required by section 101(a)(17).

(B)(i) For fiscal year 1993, the amount otherwise payable to a State for a fiscal year under this section shall be reduced by the amount by which expenditures from non-Federal sources under the State plan under this title for the previous fiscal year are less than the average of the total of such expenditures for the 3 fiscal years preceding the previous fiscal year.

(ii) For fiscal year 1994 and each fiscal year thereafter, the amount otherwise payable to a State for a fiscal year under this section shall be reduced by the amount by which expenditures from non-Federal sources under the State plan under this title for the previous fiscal year are less than the total of such expenditures for the second fiscal year preceding the previous fiscal year.

(C) The Commissioner may waive or modify any requirement or limitation under paragraphs (A) and (B) if the Commissioner determines that a waiver or modification is an equitable response to exceptional or uncontrollable circumstances affecting the State.

(3)(A) Except as provided in subparagraph (B), the amount of a payment under this section with respect to any construction project in any State shall be equal to the same percentage of the cost of such project as the Federal share that is applicable in the case of rehabilitation facilities (as defined in section 645(g) of the Public Health Service Act (42 U.S.C. 291o(a))), in such State.

(B) If the Federal share with respect to rehabilitation facilities in such State is determined pursuant to section 645(b)(2) of such Act (42 U.S.C. 291o(b)(2)), the percentage of the cost for purposes of this section shall be determined in accordance with regulations prescribed by the Commissioner designed to achieve as nearly as practicable results comparable to the results obtained under such section.

(b) The method of computing and paying amounts pursuant to subsection (a) shall be as follows:

(1)[1] The Commissioner shall, prior to the beginning of each calendar quarter or other period prescribed by the Commissioner, estimate the amount to be paid to each State under the provisions of such subsection for such period, such estimate to be based on such records of the State and information furnished by it, and such other investigation as the Commissioner may find necessary.

(2)[1] The Commissioner shall pay, from the allotment available therefor, the amount so estimated by the Commissioner for such period, reduced or increased, as the case may be, by any sum (not previously adjusted under this paragraph) by which the Commissioner finds that the estimate of the amount to be paid the State for any prior period under such subsection was greater or less than the amount which should have been paid to the State for such prior period under such subsection. Such payment shall be made prior to audit or settlement by the General Accounting Office, shall be made through the disbursing facilities of the Treasury Department, and shall be made in such installments as the Commissioner may determine.

(29 U.S.C. 731)

CLIENT ASSISTANCE PROGRAM

SEC. 112. (a) From funds appropriated under subsection (i), the Secretary shall, in accordance with this section, make grants to States to establish and carry out client assistance programs to provide assistance in informing and advising all clients and client applicants of all available benefits under this Act, and, upon request of such clients or client applicants, to assist and advocate for such clients or applicants in their relationships with projects, programs, and facilities providing services to them under this Act, including assistance and advocacy in pursuing legal, administrative, or other appropriate remedies to ensure the protection of the rights of such individuals under this Act and to facilitate access to the services funded under this Act through individual and systemic advocacy. The client assistance program shall provide information on the available services and benefits under this Act and title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) to individuals with disabilities in the State, especially with regard to individuals with disabilities who have traditionally been unserved or underserved by vocational rehabilitation programs. In providing assistance and advocacy under this subsection with respect to services under this title, a client assistance program may provide the assistance and advocacy with respect to services that are directly related to facilitating the employment of the individual.

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[1] So in law. Margins are incorrect.

(b) No State may receive payments from its allotment under this Act in any fiscal year unless the State has in effect not later than October 1, 1984, a client assistance program which—

(1) has the authority to pursue legal, administrative, and other appropriate remedies to ensure the protection of rights of individuals with disabilities who are receiving treatments, services, or rehabilitation under this Act within the State; and

(2) meets the requirements of designation under subsection (c).

(c)(1)(A) The Governor shall designate a public or private agency to conduct the client assistance program under this section. Except as provided in the last sentence of this paragraph, the Governor shall designate an agency which is independent of any agency which provides treatment, services, or rehabilitation to individuals under this Act. If there is an agency in the State which has, or had, prior to the date of enactment of the Rehabilitation Amendments of 1984, served as a client assistance agency under this section and which received Federal financial assistance under this Act, the Governor may, in the initial designation, designate an agency which provides treatment, services, or rehabilitation to individuals with disabilities under this Act.

(B) The Governor may not redesignate the agency designated under subparagraph (A) without good cause and unless—

(i) the Governor has given the agency 30 days notice of the intention to make such redesignation, including specification of the good cause for such redesignation and an opportunity to respond to the assertion that good cause has been shown;

(ii) individuals with disabilities or their representatives have timely notice of the redesignation and opportunity for public comment; and

(iii) the agency has the opportunity to appeal to the Commissioner on the basis that the redesignation was not for good cause.

(2) In carrying out the provisions of this section, the Governor shall consult with the director of the State vocational rehabilitation agency, the head of the developmental disability protection and advocacy agency, and with representatives of professional and consumer organizations serving individuals with disabilities in the State.

(3) The agency designated under this subsection shall be accountable for the proper use of funds made available to the agency.

(4) For the purpose of this subsection, the term "Governor" means the chief executive of the State.

(d) The agency designated under subsection (c) of this section may not bring any class action in carrying out its responsibilities under this section.

(e)(1)(A) The Secretary shall allot the sums appropriated for each fiscal year under this section among the States on the basis of relative population of each State, except that no State shall receive less than $50,000.

(B) The Secretary shall allot $30,000 each to American Samoa, Guam, the Virgin Islands, the Northern Mariana Islands, and the Republic of Palau, except that the Republic of Palau may receive such allotment under this section only until the Compact of Free Association with Palau takes effect.

(C) For the purpose of this paragraph, the term "State" does not include American Samoa, Guam, the Virgin Islands, the Northern Mariana Islands, and the Republic of Palau.

(D)(i) In any fiscal year that the funds appropriated for such fiscal year exceed $7,500,000, the minimum allotment shall be $100,000 for States and $45,000 for territories.

(ii) Subject to clause (i), the Commissioner may increase the minimum allotments under subparagraphs (A) and (B) for any fiscal year for which funds appropriated under this section for such fiscal year exceed the sums appropriated under this section for the preceding fiscal year.

(2) The amount of an allotment to a State for a fiscal year which the Secretary determines will not be required by the State during the period for which it is available for the purpose for which allotted shall be available for reallotment by the Secretary at appropriate times to other States with respect to which such a determination has not been made, in proportion to the original allotments of such States for such fiscal year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use during such period; and the total of such reduction shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any such amount so reallotted to a State for a fiscal year shall be deemed to be a part of its allotment for such fiscal year.

(3) Except as specifically prohibited by or as otherwise provided in State law, the Secretary shall pay to the agency designated under subsection (c) the amount specified in the application approved under subsection (f).

(f) No grant may be made under this section unless the State submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary deems necessary to meet the requirements of this section.

(g) The Secretary shall prescribe regulations applicable to the client assistance program which shall include the following requirements:

(1) No employees of such programs shall, while so employed, serve as staff or consultants of any rehabilitation project, program, or facility receiving assistance under this Act in the State.

(2) Each program shall be afforded reasonable access to policymaking and administrative personnel in the State and local rehabilitation programs, projects, or facilities.

(3) Each program shall contain provisions designed to assure that to the maximum extent possible mediation procedures are used prior to resorting to administrative or legal remedies.

(4) The agency designated under subsection (c) shall submit an annual report to the Secretary on the operation of the program during the previous year, including a summary of the work done and the uniform statistical tabulation of all cases handled by such program. A copy of each such report shall be submitted to the appropriate committees of the Congress by the Secretary, together with a summary of such reports and the Secretary's evaluation of the program, including appropriate recommendations.

(5) Each such report shall contain information on the number of requests the client assistance program under this section receives annually, the number of requests such program is unable to serve, and the reasons that the program is unable to serve all the requests.

(6) For purposes of such report or for any other periodic audit, report, or evaluation of the performance of a client assistance program under this section, the Secretary shall not require such a program to disclose the identity of, or any other personally identifiable information related to, any individual requesting assistance under such program.

(h) There are authorized to be appropriated such sums as may be necessary for fiscal years 1993 through 1997 to carry out the provisions of this section.

(29 U.S.C. 732)

PART C—INNOVATION AND EXPANSION GRANTS

SEC. 120. STATE ELIGIBILITY.

Effective October 1, 1993, any State desiring to receive assistance under this part and part B of this title shall prepare and submit to the Commissioner a statewide strategic plan for developing and using innovative approaches for achieving long-term success in expanding and improving vocational rehabilitation services, including supported employment services, provided under the State plan submitted under section 101 and the supplement to the State plan submitted under part C of title VI.

(29 U.S.C. 740)

SEC. 121. CONTENTS OF STRATEGIC PLANS.

(a) PURPOSE AND POLICY.—The strategic plan shall be designed to achieve the purpose and policy of this title and carry out the State plan and the supplement to the State plan submitted under part C of title VI.

(b) CONTENTS.—The strategic plan shall include—

(1) a statement of the mission, philosophy, values, and principles of the vocational rehabilitation program in the State;

(2) specific goals and objectives for expanding and improving the system for providing the vocational rehabilitation program;

(3) specific multifaceted and systemic approaches for accomplishing the objectives, including interagency coordination and cooperation, that build upon state-of-the-art practices and research findings and that implement the State plan and the supplement to the State plan submitted under part C of title VI;

(4) a description of the specific programs, projects, and activities funded under this part and how the programs, projects, and activities accomplish the objectives; and

(5) specific criteria for determining whether the objectives have been achieved, an assurance that the State will conduct an annual evaluation to determine the extent to which the objectives have been achieved, and, if specific objectives have not been achieved, the reasons that the objectives have not been achieved and a description of alternative approaches that will be taken.

(29 U.S.C. 741)

SEC. 122. PROCESS FOR DEVELOPING STRATEGIC PLANS.

(a) PERIOD AND UPDATES.—The strategic plan shall cover a 3-year period and shall be updated on an annual basis to reflect actual experience over the previous year and input from the State Rehabilitation Advisory Council established under section 105, individuals with disabilities, and other interested parties.

(b) RECOMMENDATIONS.—Prior to developing the strategic plan, the State shall hold public forums and meet with and receive recommendations from members of the State Rehabilitation Advisory Council and the Statewide Independent Living Council established under section 705.

(c) CONSIDERATION OF RECOMMENDATIONS.—The State shall consider the recommendations and, if the State rejects the recommendations, shall include a written explanation of the rejection in the strategic plan.

(d) PROCEDURE.—The State shall develop a procedure for ensuring ongoing comment from the councils described in subsection (b) as the plan is being implemented.

(e) DISSEMINATION.—The State shall widely disseminate the strategic plan to individuals with disabilities, disability organizations, rehabilitation professionals, and other interested persons.

(29 U.S.C. 742)

SEC. 123. USE OF FUNDS.

A State may use funds made available under this part, directly or by grant, contract, or other arrangement, to carry out—

(1) programs to initiate and expand employment opportunities for individuals with severe disabilities in integrated settings that allow for the use of on-the-job training to promote the objectives of title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.);

(2) programs or activities to improve the provision of, and expand, employment services in integrated settings to individuals with sensory, cognitive, physical, and mental impairments who have traditionally not been served by the State vocational rehabilitation agency;

(3) programs and activities to maximize the ability of individuals with disabilities to use rehabilitation technology in employment settings;

(4) programs and activities that—

(A) assist employers in accommodating, evaluating, training, or placing individuals with disabilities in the workplace of the employer consistent with provisions of this Act and title I of the Americans with Disabilities Act of 1990; and

(B) may include short-term technical assistance or other effective strategies;

(5) programs and activities that expand and improve the extent and type of client involvement in the review and selection of the training and employment goals of the client;

(6) programs and activities that expand and improve opportunities for career advancement for individuals with severe disabilities;

(7) programs, projects, and activities designed to initiate, expand, or improve working relationships between vocational rehabilitation services provided under this title and independent living services provided under title VII;

(8) programs, projects, and activities designed to improve functioning of the system for delivering vocational rehabilitation services and to improve coordination and working relationships with other State and local agencies, business, industry, labor, community rehabilitation programs, and centers for independent living, including projects designed to—

(A) increase the ease of access to, timeliness of, and quality of vocational rehabilitation services through the development and implementation of policies, procedures, and systems and interagency mechanisms for providing vocational rehabilitation services;

(B) improve the working relationships between State vocational rehabilitation agencies, and other State agencies, centers for independent living, community rehabilitation programs, educational agencies involved in higher education, adult basic education, and continuing education, and businesses, industry, and labor organizations, in order to create and facilitate cooperation in—

(i) planning and implementing services; and

(ii) the development of an integrated system of community-based vocational rehabilitation service that includes appropriate transitions between service systems; and

(C) improve the ability of professionals, clients, advocates, business, industry, and labor to work in cooperative partnerships to improve the quality of vocational rehabilitation services and job and career opportunities for individuals with disabilities;

(9) support efforts to ensure that the annual evaluation of the effectiveness of the program in meeting the goals and objectives set forth in the State plan, including the system for evaluating the performance of rehabilitation counselors, coordinators, and other personnel used in the State, facilitates and does not impede the accomplishment of the purpose and policy of this title, including serving, among others, individuals with the most severe disabilities;

(10) support the initiation, expansion, and improvement of a comprehensive system of personnel development;

(11) support the provision of training and technical assistance to clients, business, industry, labor, community rehabili-

tation programs, and others regarding the implementation of the amendments made by the Rehabilitation Act Amendments of 1992, of title V of this Act, and of the Americans with Disabilities Act of 1990; and

(12) support the funding of the State Rehabilitation Advisory Council and the Statewide Independent Living Council established under section 705.

(29 U.S.C. 743)

SEC. 124. ALLOTMENTS AMONG STATES.

(a) IN GENERAL.—

(1) STATES.—

(A) POPULATION BASIS.—Except as provided in subparagraph (B), from sums appropriated for each fiscal year to carry out this part (not including sums used in accordance with section 101(a)(34)(B)), the Commissioner shall make an allotment to each State whose State plan has been approved under section 101 of an amount bearing the same ratio to such sums as the population of the State bears to the population of all States.

(B) MINIMUMS.—Subject to the availability of appropriations to carry out this part, the allotment to any State under subparagraph (A) shall be not less than $200,000 or one-third of one percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than $200,000 or one-third of one percent of such sums shall be increased to the greater of the two amounts.

(2) CERTAIN TERRITORIES.—

(A) IN GENERAL.—For the purposes of this subsection, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau shall not be considered to be States.

(B) ALLOTMENT.—Each jurisdiction described in subparagraph (A) shall be allotted not less than one-eighth of one percent of the amounts made available for purposes of this part for the fiscal year for which the allotment is made, except that the Republic of Palau may receive such allotment under this section only until the Compact of Free Association with Palau takes effect.

(3) ADJUSTMENT FOR INFLATION.—For purposes of determining the minimum amount of an allotment under paragraph (1)(B), the amount $200,000 shall, in the case of such allotments for fiscal year 1994 and subsequent fiscal years, be increased to the extent necessary to offset the effects of inflation occurring since October 1992, as measured by the percentage increase in the Consumer Price Index For All Urban Consumers (U.S. city average) during the period ending on April 1 of the fiscal year preceding the fiscal year for which the allotment is to be made.

(b) PROPORTIONAL REDUCTION.—Amounts necessary to provide allotments to States in accordance with subsection (a)(1)(B) as increased under subsection (a)(3), or to provide allotments in accordance with subsection (a)(2)(B), shall be derived by proportionately reducing the allotments of the remaining States under subsection (a)(1), but with such adjustments as may be necessary to prevent the allotment of any such remaining States from being thereby reduced to less than the greater of $200,000 or one-third of one percent of the sums made available for purposes of this part for the fiscal year for which the allotment is made, as increased in accordance with subsection (a)(3).

(c) REALLOTMENT.—Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be expended by such State for carrying out the provisions of this part, the Commissioner shall make such amount available for carrying out the purposes of this part to one or more of the States that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the State (as determined under the preceding provisions of this section) for such year.

(29 U.S.C. 744)

PART D—AMERICAN INDIAN VOCATIONAL REHABILITATION SERVICES

VOCATIONAL REHABILITATION SERVICES GRANTS

SEC. 130.[1] (a) The Commissioner, in accordance with the provisions of this part, may make grants to the governing bodies of Indian tribes located on Federal and State reservations (and consortia of such governing bodies) to pay 90 percent of the costs of vocational rehabilitation services for American Indians who are individuals with disabilities residing on such reservations. The non-Federal share of such costs may be in cash or in kind, fairly valued, and the Commissioner may waive such non-Federal share requirement in order to carry out the purposes of this Act.

(b)(1) No grant may be made under this part for any fiscal year unless an application therefor has been submitted to and approved by the Commissioner. The Commissioner may not approve an application unless the application—

(A) is made at such time, in such manner, and contains such information as the Commissioner may require;

(B) contains assurances that the rehabilitation services provided under this part to American Indians who are individuals with disabilities residing on a reservation in a State shall be, to the maximum extent feasible, comparable to rehabilitation services provided under this title to other individuals with disabilities residing in the State and that, where appropriate, may include services traditionally used by Indian tribes; and

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[1] Certain amendments to section 130 have been executed to effectuate the probable intent of the Congress. As amended by section 106 of Public Law 95–602, section 130 contained subsections (a), (b), (d), and (e), with no subsection (c). Section 211(c) of Public Law 99–506 provided that section 130 is amended "by striking out all of subsection (c) and by redesignating subsection (d) as subsection (c)". Section 202(i)(3) of P.L. 100–630 provided that section 130 is amended "by striking subsection (d) and redesignating subsection (e) as subsection (c)". The amendment made by P.L. 100–630 has been executed as if section 211(c) of P.L. 99–506 had not been enacted.

(C) contains assurances that the application was developed in consultation with the designated State unit of the State.

(2) The provisions of sections 5, 6, 7, and 102(a) of the Indian Self-Determination and Education Assistance Act shall be applicable to any application submitted under this part. For purposes of this paragraph, any reference in any such provision to the Secretary of Education or to the Secretary of the Interior shall be considered to be a reference to the Commissioner.

(3) Any application approved under this part shall be effective for not less than twelve months or more than 36 months, except as determined otherwise by the Commissioner pursuant to prescribed regulations. The State shall continue to provide vocational rehabilitation services under its State plan to American Indians residing on a reservation whenever such State includes any such American Indians in its State population under section 110(a)(1).

(4) In making grants under this part, the Secretary shall give priority consideration to applications for the continuation of programs which have been funded under this part.

(5) Nothing in this section may be construed to authorize a separate service delivery system for Indian residents of a State who reside in non-reservation areas.

(c) The term "reservation" includes Indian reservations, public domain Indian allotments, former Indian reservations in Oklahoma, and land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act.

(29 U.S.C. 750)

TITLE II—RESEARCH AND TRAINING

DECLARATION OF PURPOSE

SEC. 200. The purpose of this title is to—

(1) provide for research, demonstration projects, training, and related activities to maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities of all ages, with particular emphasis on improving the effectiveness of services authorized under this Act;

(2) provide for a comprehensive and coordinated approach to the support and conduct of such research, demonstration projects, training, and related activities and to ensure that the approach is in accordance with the long-range plan for research developed under section 202(g);

(3) promote the transfer of rehabilitation technology to individuals with disabilities through research and demonstration projects relating to—

(A) the procurement process for the purchase of rehabilitation technology;

(B) the utilization of rehabilitation technology on a national basis; and

(C) specific adaptations or customizations of products to enable individuals with disabilities to live more independently;

(4) ensure the widespread distribution, in usable formats, of practical scientific and technological information—

(A) generated by research, demonstration projects, training, and related activities; and

(B) regarding state-of-the-art practices, improvements in the services authorized under this Act, rehabilitation technology, and new knowledge regarding disabilities,

to rehabilitation professionals, individuals with disabilities, and other interested parties;

(5) identify effective strategies that enhance the opportunities of individuals with disabilities to engage in productive work; and

(6) increase opportunities for researchers who are members of traditionally underserved populations, including researchers who are members of minority groups and researchers who are individuals with disabilities.

(29 U.S.C. 760)

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. (a) There are authorized to be appropriated—

(1) for the purpose of providing for the expenses of the National Institute on Disability and Rehabilitation Research under section 202, which shall include the expenses of the Rehabilitation Research Advisory Council under section 205, and shall not include the expenses of such Institute to carry out section 204, such sums as may be necessary for each of fiscal years 1993 through 1997; and

(2) to carry out section 204, such sums as may be necessary for each of fiscal years 1993 through 1997.

(b) Funds appropriated under this title shall remain available until expended.

(29 U.S.C. 761)

NATIONAL INSTITUTE ON DISABILITY AND REHABILITATION RESEARCH

SEC. 202. (a)(1) There is established within the Department of Education a National Institute on Disability and Rehabilitation Research (hereinafter in this title referred to as the "Institute"), which shall be headed by a Director (hereinafter in this title referred to as the "Director"), in order to—

(A) promote, coordinate, and provide for—

(i) research;

(ii) demonstration projects; and

(iii) related activities,

with respect to individuals with disabilities;

(B) more effectively carry out activities through the programs under section 204;

(C) widely disseminate information from the activities described in clauses (i) through (iii) of subparagraph (A) and subparagraph (B); and

(D) provide leadership in advancing the quality of life of individuals with disabilities.

(2) In the performance of the functions of the office, the Director shall be directly responsible to the Secretary or to the same

Under Secretary or Assistant Secretary of the Department of Education to whom the Commissioner is responsible under section 3(a).

(b) The Director, through the Institute, shall be responsible for—

(1) administering the programs described in section 204;

(2) widely disseminating findings, conclusions, and recommendations, resulting from research, demonstration projects, and related activities funded by the Institute, to—

(A) other Federal, State, tribal, and local public agencies;

(B) private organizations engaged in research relating to rehabilitation or providing rehabilitation services;

(C) rehabilitation practitioners; and

(D) individuals with disabilities and the parents, family members, guardians, advocates, or authorized representatives of the individuals;

(3) coordinating, through the Interagency Committee established by section 203 of this Act, all Federal programs and policies relating to research in rehabilitation;

(4) widely disseminating educational materials and research results, concerning ways to maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, to—

(A) public and private entities, including—

(i) elementary and secondary schools (as defined in paragraphs (8) and (21), respectively, of section 1471 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891 (8) and (21)); and

(ii) institutions of higher education;

(B) rehabilitation practitioners;

(C) individuals with disabilities (especially such individuals who are members of minority groups or of populations that are unserved or underserved by programs under this Act); and

(D) the parents, family members, guardians, advocates, or authorized representatives of the individuals;

(5) conducting an education program to inform the public about ways of providing for the rehabilitation of individuals with disabilities, including information relating to family care and self care;

(6) conducting conferences, seminars, and workshops (including in-service training programs and programs for individuals with disabilities) concerning advances in rehabilitation research and rehabilitation technology, pertinent to the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities;

(7) taking whatever action is necessary to keep the Congress fully and currently informed with respect to the implementation and conduct of programs and activities carried out under this title, including dissemination activities;

(8) producing, in conjunction with the Department of Labor, the National Center for Health Statistics, the Bureau of

the Census, the Health Care Financing Administration, the Social Security Administration, the Bureau of Indian Affairs, the Indian Health Service, and other Federal departments and agencies, as may be appropriate, statistical reports and studies on the employment, health, income, and other demographic characteristics of individuals with disabilities and widely disseminating such reports and studies to rehabilitation professionals, individuals with disabilities, the parents, family members, guardians, advocates, or authorized representatives of such individuals, and others to assist in the planning, assessment, and evaluation of vocational and other rehabilitation services for individuals with disabilities;

(9) conducting research on consumer satisfaction with vocational rehabilitation services for the purpose of identifying effective rehabilitation programs and policies that promote the independence of individuals with disabilities and achievement of long-term vocational goals;

(10) conducting research to examine the relationship between the provision of specific services and long-term vocational outcomes; and

(11) coordinating activities with the Attorney General regarding the provision of information, training, or technical assistance regarding the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) to ensure consistency with the plan for technical assistance required under section 506 of such Act (42 U.S.C. 12206).

(c)(1) The Director of the Institute shall be appointed by the Secretary, except that the person serving as the Director on the date of the enactment of the Rehabilitation Act Amendments of 1992 may, at the pleasure of the President, continue to serve as Director. The Director shall be an individual with substantial experience in rehabilitation and in research administration. The Director shall be compensated at the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code. The Director shall not delegate any of his functions to any officer who is not directly responsible to the Director.

(2) There shall be a Deputy Director of the Institute (hereinafter in this section referred to as the "Deputy Director") who shall be appointed by the Secretary. The Deputy Director shall be an individual with substantial experience in rehabilitation and in research administration. The Deputy Director shall be compensated at the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382 of title 5, United States Code, and shall act for the Director during the absence of the Director or the inability of the Director to perform the essential functions of the job, exercising such powers as the Director may prescribe. In the case of any vacancy in the office of the Director, the Deputy Director shall serve as Director until a Director is appointed under paragraph (1). The position created by this paragraph shall be in addition to the number of positions placed in grade GS–17 of the General Schedule under section 5108 of title 5, United States Code.

(3) The Director, subject to the approval of the President, may appoint, for terms not to exceed three years, without regard to the provisions of title 5, United States Code, governing appointment in

the competitive service, and may compensate, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, such technical and professional employees of the Institute as the Director deems ncessary[1] to accomplish the functions of the Institute and also appoint and compensate without regard to such provisions, in a number not to exceed one-fifth of the number of full-time, regular technical and professional employees of the Institute.

(4) The Director may obtain the services of consultants, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

(d) The Director, pursuant to regulations which the Secretary shall prescribe, may establish and maintain fellowships with such stipends and allowances, including travel and subsistence expenses provided for under title 5, United States Code, as the Director considers necessary to procure the assistance of highly qualified research fellows, including individuals with disabilities, from the United States and foreign countries.

(e)(1) The Director shall, pursuant to regulations which the Secretary shall prescribe, provide for scientific review of all research grants and programs over which the Director has authority by utilizing, to the maximum extent possible, appropriate peer review groups established within the Institute and composed of non-Federal scientists and other experts in the rehabilitation field (including experts in the independent living field) competent to review research grants and programs, including knowledgeable individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals. The Director shall solicit nominations for such peer review groups from the public and shall publish the names of the individuals selected. Individuals comprising each peer review group shall be selected from a pool of qualified individuals to facilitate knowledgeable, cost-effective review.

(2) In providing for such scientific review, the Secretary shall provide for training of such individuals and mechanisms to receive input from individuals with disabilities, and from the parents, family members, guardians, advocates, or authorized representatives of the individuals.

(f) Not less than 90 percent of the funds appropriated under this title for any fiscal year shall be expended by the Director to carry out activities under this title through grants, contracts, or cooperative agreements. Up to 10 percent of the funds appropriated under this title for any fiscal year may be expended directly for the purpose of carrying out the functions of the Director under this section.

(g) The Director shall develop and submit to appropriate committees of the Congress a long-range plan for rehabilitation research which shall—

(1) identify any research which should be conducted respecting the full inclusion and integration into society of individuals with disabilities, especially in the area of employment;

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[1] So in law. Probably should be "necessary".

(2) determine the funding priorities for research activities under this section and explain the basis for such priorities, including a detailed description of any new types of research recommended under this paragraph for funding;

(3) specify appropriate goals and timetables for activities to be conducted under this section; and[1]

The plan required by this subsection shall be developed by the Director in consultation with the Commissioner, the National Council on Disability established under title IV, the Secretary of Education, officials responsible for the administration of the Developmental Disabilities Assistance and Bill of Rights Act, the Interagency Committee established by section 203, and any other persons or entities the Director considers appropriate. Such plan shall be reviewed at least once every three years and may be revised at any time by the Director to the extent the Director considers necessary.

(4)[2] be developed in consultation with the Rehabilitation Research Advisory Council established under section 205 and after full consideration of the input of individuals with disabilities and the parents, family members, guardians, advocates, or authorized representatives of the individuals, organizations representing individuals with disabilities, providers of services furnished under this Act, and researchers in the rehabilitation field;

(5) specify plans for widespread dissemination of research results in accessible formats to rehabilitation practitioners, individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals;

(6) specify plans for widespread dissemination of research results that concern individuals with disabilities who are members of minority groups or of populations that are unserved or underserved by programs under this Act;

(7) be developed by the Director—

(A) in coordination with the Commissioner; and

(B) in consultation with the National Council on Disability established under title IV, the Secretary of Education, officials responsible for the administration of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.), the Interagency Committee on Disability Research established under section 203, individuals with disabilities, the parents, family members, guardians, advocates, or authorized representatives of the individuals, and any other persons or entities the Director considers appropriate; and

(8) be revised, in the manner required by this section—

(A) at least once every 5 years; and

(B) at any time determined to be necessary by the Director.

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[1] So in law. See section 203(g)(4) of Public Law 102–569 (106 Stat. 4402). The word "and" probably should not appear.

[2] Section 203(g)(5) of Public Law 102–569 (106 Stat. 4402) provided that the subsection is amended by adding at the end paragraphs (4) through (8) above, which results in the paragraphs following the flush language after and below paragraph (3).

(h) In order to promote cooperation among Federal departments and agencies conducting research programs, the Director shall consult with the administrators of such programs, and with the Interagency Committee established by section 203, regarding the design of research projects conducted by such entities and the results and applications of such research.

(i)(1) The Director shall take appropriate actions to provide for a comprehensive and coordinated research program under this title. In providing such a program, the Director may undertake joint activities with other Federal entities engaged in research and with appropriate private entities. Any Federal entity proposing to establish any research project related to the purposes of this Act shall consult, through the Interagency Committee established by section 203, with the Director as Chairperson of such Committee and provide the Director with sufficient prior opportunity to comment on such project.

(2) Any person responsible for administering any program of the National Institutes of Health, the Department of Veterans Affairs, the National Science Foundation, the National Aeronautics and Space Administration, the Office of Special Education and Rehabilitative Services, or of any other Federal entity, shall, through the Interagency Committee established by section 203, consult and cooperate with the Director in carrying out such program if the program is related to the purposes of this title.

(j)(1) The Director shall make a grant to an institution of higher education to support a program of pediatric rehabilitation research.

(2) The Director shall support, either directly or by way of grant or contract, a Research and Training Center in the Pacific Basin in order to improve services to individuals with disabilities through relevant rehabilitation research and training in the Pacific Basin and to assist in the coordination of rehabilitation services provided by a broad range of agencies and entities. Such Center shall—

(A) develop a sound demographic base,

(B) analyze, develop, and utilize appropriate technology,

(C) develop a culturally relevant rehabilitation manpower development program, and

(D) facilitate interagency communication and cooperation, implementing advanced information technology.

(3) The Director shall support, directly or by grant or contract, a center associated with an institution of higher education, for research and training concerning the delivery of rehabilitation services to rural areas.

(k) The Director shall make grants to institutions of higher education for the training of rehabilitation researchers, including individuals with disabilities, with particular attention to research areas that support the implementation and objectives of this Act and that improve the effectiveness of services authorized under this Act.

(29 U.S.C. 761a)

INTERAGENCY COMMITTEE

SEC. 203. (a)(1) In order to promote coordination and cooperation among Federal departments and agencies conducting rehabilitation research programs, there is established within the Federal Government an Interagency Committee on Disability Research (hereinafter in this section referred to as the "Committee"), chaired by the Director and comprised of such members as the President may designate, including the following (or their designees): the Director, the Commissioner of the Rehabilitation Services Administration, the Assistant Secretary for Special Education and Rehabilitative Services, the Secretary of Education, the Secretary of Veterans Affairs, the Director of the National Institutes of Health, the Director of the National Institute of Mental Health, the Administrator of the National Aeronautics and Space Administration, the Secretary of Transportation, the Assistant Secretary of the Interior for Indian Affairs, the Director of the Indian Health Service, and the Director of the National Science Foundation.

(2) The Committee shall meet not less than four times each year.

(b) After receiving input from individuals with disabilities and the parents, family members, guardians, advocates, or authorized representatives of the individuals, the Committee shall identify, assess, and seek to coordinate all Federal programs, activities, and projects, and plans for such programs, activities, and projects with respect to the conduct of research related to rehabilitation of individuals with disabilities.

(c) The Committee shall annually submit to the President and to the appropriate committees of the Congress a report making such recommendations as the Committee deems appropriate with respect to coordination of policy and development of objectives and priorities for all Federal programs relating to the conduct of research related to rehabilitation of individuals with disabilities.

(29 U.S.C. 761b)

RESEARCH

SEC. 204. (a) The Director may make grants to and contracts with States and public or private agencies and organizations, including institutions of higher education, Indian tribes, and tribal organizations, to pay part of the cost of projects for the purpose of planning and conducting research, demonstration projects, training, and related activities, the purposes of which are to develop methods, procedures, and rehabilitation technology, that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities, and improve the effectiveness of services authorized under this Act. In carrying out this section, the Director shall emphasize projects that support the implementation of titles I, III, VI, VII, and VIII. Such projects, as described in the State plans submitted by State agencies, may include medical and other scientific, technical, methodological, and other investigations into the nature of disability, methods of analyzing it, and restorative techniques, including basic research where related to rehabilitation techniques or services; studies and analysis of industrial, vocational, social, recreational, psychiatric, psychological, economic, and other factors affecting rehabilitation of individuals with disabilities; studies and analysis of special problems of individuals who are homebound and individuals who are institutionalized; studies, analyses, and demonstrations of architectural and engineering design adapted to meet the special needs of individuals with disabilities; studies, analyses, and other activities related to supported employment; and related activities which hold promise of increasing knowledge and improving methods in the rehabilitation of individuals with disabilities and individuals with the most severe disabilities, particularly individuals with disabilities, and individuals with the most severe disabilities, who are members of populations that are unserved or underserved by programs under this Act.

(b)(1) In addition to carrying out projects under subsection (a), the Director may make grants under this subsection (referred to in this subsection as "research grants") to pay part or all of the cost of the specialized research or demonstration activities described in paragraphs (2) through (16).

(2)(A) Research grants may be used for the establishment and support of Rehabilitation Research and Training Centers, for the purpose of providing an integrated program of research, which Centers shall—

(i) be operated in collaboration with institutions of higher education or providers of rehabilitation services or other appropriate services; and

(ii) serve as centers of national excellence and national or regional resources for providers and individuals with disabilities and the parents, family members, guardians, advocates, or authorized representatives of the individuals.

(B) The Centers shall conduct research and training activities by—

(i) conducting coordinated and advanced programs of research in rehabilitation targeted toward the production of new knowledge that will improve rehabilitation methodology and service delivery systems, alleviate or stabilize disabling conditions, and promote maximum social and economic independence of individuals with disabilities;

(ii) providing training (including graduate, pre-service, and in-service training) to assist individuals to more effectively provide rehabilitation services;

(iii) providing training (including graduate, pre-service, and in-service training) for rehabilitation research personnel and other rehabilitation personnel; and

(iv) serving as an informational and technical assistance resource to providers, individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals, through conferences, workshops, public education programs, in-service training programs, and similar activities.

(C) The research to be carried out at each such Center may include—

(i) basic or applied medical rehabilitation research;

(ii) research regarding the psychological and social aspects of rehabilitation, including disability policy;

(iii) research related to vocational rehabilitation;

(iv) continuation of research that promotes the emotional, social, educational, and functional growth of children who are individuals with disabilities;

(v) continuation of research to develop and evaluate interventions, policies, and services that support families of those children and adults who are individuals with disabilities; and

(vi) continuation of research that will improve services and policies that foster the productivity, independence, and social integration of individuals with disabilities, and enable individuals with disabilities, including individuals with mental retardation and other developmental disabilities, to live in their communities.

(D) Training of students preparing to be rehabilitation personnel shall be an important priority for such a Center.

(E) The Director shall make grants under this paragraph to establish and support both comprehensive centers dealing with multiple disabilities and centers primarily focused on particular disabilities.

(F) Grants made under this paragraph may be used to provide funds for services rendered by such a Center to individuals with disabilities in connection with the research and training activities.

(G) Grants made under this paragraph may be used to provide faculty support for teaching—

(i) rehabilitation related courses of study for credit; and

(ii) other courses offered by the Centers, either directly or through another entity.

(H) The research and training activities conducted by such a Center shall be conducted in a manner that is accessible to and usable by individuals with disabilities.

(I) The Director shall encourage the Centers to develop practical applications for the findings of the research of the Centers.

(J) In awarding grants under this paragraph, the Director shall take into consideration the location of any proposed Center and the appropriate geographic and regional allocation of such Centers.

(K) To be eligible to receive a grant under this paragraph, each such institution or provider shall—

(i) be of sufficient size, scope, and quality to effectively carry out the activities in an efficient manner consistent with appropriate State and Federal law; and

(ii) demonstrate the ability to carry out the training activities either directly or through another entity that can provide such training.

(L) The Director shall make grants under this paragraph for periods of 5 years, except that the Director may make a grant for a period of less than 5 years if—

(i) the grant is made to a new recipient; or

(ii) the grant supports new or innovative research.

(M) Grants made under this paragraph shall be made on a competitive basis. To be eligible to receive a grant under this paragraph, a prospective grant recipient shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require.

(N) The Director shall establish a system of peer review of applications for grants under this paragraph. The peer review of an application for the renewal of a grant made under this paragraph shall take into account the past performance of the applicant in carrying out the grant and input from individuals with disabilities and the parents, family members, guardians, advocates, or authorized representatives of the individuals.

(O) An institution or provider that receives a grant under this paragraph to establish such a Center may not collect more than 15 percent of the amount of the grant received by the Center in indirect cost charges.

(3)(A) Research grants may be used for the establishment and support of Rehabilitation Engineering Research Centers, operated by or in collaboration with institutions of higher education or nonprofit organizations, to conduct research or demonstration activities, and training activities, regarding rehabilitation technology, including rehabilitation engineering, assistive technology devices, and assistive technology services, for the purposes of enhancing opportunities for better meeting the needs of, and addressing the barriers confronted by, individuals with disabilities in all aspects of their lives.

(B) In order to carry out the purposes set forth in subparagraph (A), such a Center shall carry out the research or demonstration activities by—

(i) developing and disseminating innovative methods of applying advanced technology, scientific achievement, and psychological and social knowledge to—

(I) solve rehabilitation problems and remove environmental barriers through planning and conducting research, including cooperative research with public or private agencies and organizations, designed to produce new scientific knowledge, and new or improved methods, equipment, and devices; and

(II) study new or emerging technologies, products, or environments, and the effectiveness and benefits of such technologies, products, or environments;

(ii) demonstrating and disseminating—

(I) innovative models for the delivery, to rural and urban areas, of cost-effective rehabilitation technology services that promote utilization of assistive technology devices; and

(II) other scientific research to assist in meeting the employment and independent living needs of individuals with severe disabilities; or

(iii) conducting research or demonstration activities that facilitate service delivery systems change by demonstrating, evaluating, documenting, and disseminating—

(I) consumer responsive and individual and family centered innovative models for the delivery to both rural and urban areas, of innovative cost-effective rehabilitation technology services that promote utilization of rehabilitation technology; and

(II) other scientific research to assist in meeting the employment and independent living needs of, and addressing the barriers confronted by, individuals with disabilities, including individuals with severe disabilities.

(C) To the extent consistent with the nature and type of research or demonstration activities described in subparagraph (B), each Center established or supported through a grant made available under this paragraph shall—

(i) cooperate with programs established under the Technology-Related Assistance to Individuals With Disabilities Act of 1988 (29 U.S.C. 2201 et seq.) and other regional and local programs to provide information to individuals with disabilities and the parents, family members, guardians, advocates, or authorized representatives of the individuals, to—

(I) increase awareness and understanding of how rehabilitation technology can address their needs; and

(II) increase awareness and understanding of the range of options, programs, services, and resources available, including financing options for the technology and services covered by the area of focus of the Center;

(ii) provide training opportunities to individuals, including individuals with disabilities, to become researchers of rehabilitation technology and practitioners of rehabilitation technology in conjunction with institutions of higher education and nonprofit organizations; and

(iii) respond, through research or demonstration activities, to the needs of individuals with all types of disabilities who may benefit from the application of technology within the area of focus of the Center.

(D)(i) In establishing Centers to conduct the research or demonstration activities described in subparagraph (B)(iii), the Director may establish one Center in each of the following areas of focus:

(I) Early childhood services, including early intervention and family support.

(II) Education at the elementary and secondary levels, including transition from school to postschool activities.

(III) Employment, including supported employment, and reasonable accommodations and the reduction of environmental barriers as required by the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and title V.

(IV) Independent living, including transition from institutional to community living, maintenance of community living on leaving the work force, self-help skills, and activities of daily living.

(ii) Each Center conducting the research or demonstration activities described in subparagraph (B)(iii) shall have an advisory committee, of which the majority of members are individuals with disabilities who are users of rehabilitation technology, and the parents, family members, guardians, advocates, or authorized representatives of users of rehabilitation technology.

(E) Grants made under this paragraph shall be made on a competitive basis and shall be for a period of 5 years, except that the Director may make a grant for a period of less than 5 years if—

(i) the grant is made to a new recipient; or

(ii) the grant supports new or innovative research.

(F) To be eligible to receive a grant under this paragraph, a prospective grant recipient shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require.

(G) Each Center established or supported through a grant made available under this paragraph shall—

(i) cooperate with State agencies and other local, State, regional, and national programs and organizations developing or delivering rehabilitation technology, including State programs funded under the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2201 et seq.); and

(ii) prepare and submit to the Director as part of an application for continuation of a grant, or as a final report, a report that documents the outcomes of the program in terms of both short- and long-term impact on the lives of individuals with disabilities, and such other information as may be requested by the Director.

(4)(A) Research grants may be used to conduct a program for spinal cord injury research, including conducting such a program by making grants to public or private agencies and organizations to pay part or all of the costs of special projects and demonstration projects for spinal cord injuries, that will—

(i) ensure widespread dissemination of research findings among all Spinal Cord Injury Centers, to rehabilitation practitioners, individuals with spinal cord injury, the parents, family members, guardians, advocates, or authorized representatives of such individuals, and organizations receiving financial assistance under this paragraph;

(ii) provide encouragement and support for initiatives and new approaches by individual and institutional investigators; and

(iii)[1] establish and maintain close working relationships with other governmental and voluntary institutions and organizations engaged in similar efforts in order to unify and coordinate scientific efforts, encourage joint planning, and promote the interchange of data and reports among spinal cord injury investigations.

(B) Any agency or organization carrying out a project or demonstration project assisted by a grant under this paragraph that provides services to individuals with spinal cord injuries shall—

(i) establish, on an appropriate regional basis, a multidisciplinary system of providing vocational and other rehabilitation services, specifically designed to meet the special needs of individuals with spinal cord injuries, including acute care as well as periodic inpatient or outpatient followup and services;

(ii) demonstrate and evaluate the benefits to individuals with spinal cord injuries served in, and the degree of cost effectiveness of, such a regional system;

(iii) demonstrate and evaluate existing, new, and improved methods and equipment essential to the care, management, and rehabilitation of individuals with spinal cord injuries; and

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[1] So in law. See section 205(b) of Public Law 102-569 (106 Stat 4403). Indentation is incorrect.

(iv) demonstrate and evaluate methods of community outreach for individuals with spinal cord injuries and community education in connection with the problems of such individuals in areas such as housing, transportation, recreation, employment, and community activities.

(C) In awarding grants under this paragraph, the Director shall take into account the location of any proposed Spinal Cord Injury Center and the appropriate geographic and regional allocation of such Centers.

(5) Research grants may be used to conduct a program for end-stage renal disease research, to include support of projects and demonstrations for providing special services (including transplantation and dialysis), artificial kidneys, and supplies necessary for the rehabilitation of individuals with such disease and which will (A) insure dissemination of research findings, (B) provide encouragement and support for initiatives and new approaches by individual and institutional investigators, and (C) establish and maintain close working relationships with other governmental and voluntary institutions and organizations engaged in similar efforts, in order to unify and coordinate scientific efforts, encourage joint planning, and promote the interchange of data and reports among investigators in the field of end-stage renal disease. No person shall be selected to participate in such program who is eligible for services for such disease under any other provision of law.

(6) Research grants may be used to conduct a program for international rehabilitation research, demonstration, and training for the purpose of developing new knowledge and methods in the rehabilitation of individuals with disabilities in the United States, cooperating with and assisting in developing and sharing information found useful in other nations in the rehabilitation of individuals with disabilities, and initiating a program to exchange experts and technical assistance in the field of rehabilitation of individuals with disabilities with other nations as a means of increasing the levels of skill of rehabilitation personnel.

(7) Research grants may be used to conduct a research program concerning the use of existing telecommunications systems (including telephone, television, satellite, radio, and other similar systems) which have the potential for substantially improving service delivery methods, and the development of appropriate programming to meet the particular needs of individuals with disabilities.

(8) Research grants may be used to conduct a program of joint projects with the National Institutes of Health, the National Institute of Mental Health, the Health Services Administration, the Administration on Aging, the National Science Foundation, the Veterans' Administration, the Department of Health and Human Services, the National Aeronautics and Space Administration, other Federal agencies, and private industry in areas of joint interest involving rehabilitation.

(9) Research grants may be used to conduct a program of research related to the rehabilitation of children, or older individuals, who are individuals with disabilities, including older American Indians who are individuals with disabilities. Such research program may include projects designed to assist the adjustment of, or main-

tain as residents in the community, older workers who are individuals with disabilities on leaving the work force.

(10) Research grants may be used to conduct a research program to develop and demonstrate innovative methods to attract and retain professionals to serve in rural areas in the rehabilitation of individuals with disabilities, including individuals with severe disabilities.

(11) Research grants may be used to conduct a model research and demonstration project designed to assess the feasibility of establishing a center for producing and distributing to individuals who are deaf captioned video cassettes providing a broad range of educational, cultural, scientific, and vocational programing.

(12) Research grants may be used to conduct a model research and demonstration program to develop innovative methods of providing services for preschool age children who are individuals with disabilities, including the following: (A) early intervention, assessment, parent counseling, infant stimulation, early identification, diagnosis, and evaluation of children who are individuals with severe disabilities up to the age of five, with a special emphasis on children who are individuals with severe disabilities up to the age of three; (B) such physical therapy, language development, pediatric, nursing, psychological, and psychiatric services as are necessary for such children; and (C) appropriate services for the parents of such children, including psychological and psychiatric services, parent counseling, and training.

(13) Research grants may be used to conduct a model research and training program under which model training centers shall be established to develop and use more advanced and effective methods of evaluating and addressing the employment needs of individuals with disabilities, including programs which—

(A) provide training and continuing education for personnel involved with the employment of individuals with disabilities;

(B) develop model procedures for testing and evaluating the employment needs of individuals with disabilities;

(C) develop model training programs to teach individuals with disabilities skills which will lead to appropriate employment;

(D) develop new approaches for job placement of individuals with disabilities, including new followup procedures relating to such placement; and

(E) provide information services regarding education, training, employment, and job placement for individuals with disabilities.

(14) Research grants may be used to conduct a rehabilitation research program under which financial assistance is provided in order to (A) test new concepts and innovative ideas, (B) demonstrate research results of high potential benefits, (C) purchase prototype aids and devices for evaluation, (D) develop unique rehabilitation training curricula, and (E) be responsive to special initiatives of the Director. No single grant under this paragraph may exceed $50,000 in any fiscal year and all payments made under this paragraph in any fiscal year may not exceed 5 per centum of the amount available under section 204 to the National Institute on

Disability and Rehabilitation in any fiscal year. Regulations and administrative procedures with respect to financial assistance under this paragraph shall, to the maximum extent possible, be expedited.

(15) Research grants may be used to conduct studies of the rehabilitation needs of American Indian populations and of effective mechanisms for the delivery of rehabilitation services to Indians residing on and off reservations.

(16) Research grants may be used to conduct a demonstration program under which one or more projects national in scope shall be established to develop procedures to provide incentives for the development, manufacturing, and marketing of orphan technological devices designed to enable individuals with disabilities to achieve independence and access to gainful employment.

(c) The provisions of section 306 shall apply to assistance provided under this section, unless the context indicates to the contrary.

(d)(1) In carrying out evaluations of research demonstration and related projects under this section, the Director is authorized to make arrangements for site visits to obtain information on the accomplishments of the projects.

(2) The Director shall not make a grant under this section which exceeds $299,999 unless the peer review of the grant application has included a site visit.

(29 U.S.C. 762)

REHABILITATION RESEARCH ADVISORY COUNCIL

SEC. 205. (a) ESTABLISHMENT.—Subject to the availability of appropriations, the Secretary shall establish in the Department of Education a Rehabilitation Research Advisory Council (referred to in this section as the "Council") composed of 12 members appointed by the Secretary.

(b) DUTIES.—The Council shall advise the Director with respect to research priorities and the development and revision of the long-range plan required by section 202(g).

(c) QUALIFICATIONS.—Members of the Council shall be generally representative of the community of rehabilitation professionals, the community of rehabilitation researchers, the community of individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals. At least one-half of the members shall be individuals with disabilities or parents, family members, guardians, advocates, or authorized representatives of the individuals.

(d) TERMS OF APPOINTMENT.—

(1) LENGTH OF TERM.—Each member of the Council shall serve for a term of up to 3 years, determined by the Secretary, except that—

(A) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

(B) the terms of service of the members initially appointed shall be (as specified by the Secretary) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

(2) NUMBER OF TERMS.—No member of the Council may serve more than two consecutive full terms. Members may serve after the expiration of their terms until their successors have taken office.

(e) VACANCIES.—Any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment for the position being vacated. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

(f) PAYMENT AND EXPENSES.—

(1) PAYMENT.—Each member of the Council who is not an officer or full-time employee of the Federal Government shall receive a payment of $150 for each day (including travel time) during which the member is engaged in the performance of duties for the Council. All members of the Council who are officers or full-time employees of the United States shall serve without compensation in addition to compensation received for their services as officers or employees of the United States.

(2) TRAVEL EXPENSES.—Each member of the Council may receive travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for employees serving intermittently in the Government service, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

(g) DETAIL OF FEDERAL EMPLOYEES.—On the request of the Council, the Secretary may detail, with or without reimbursement, any of the personnel of the Department of Education to the Council to assist the Council in carrying out its duties. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(h) TECHNICAL ASSISTANCE.—On the request of the Council, the Secretary shall provide such technical assistance to the Council as the Council determines to be necessary to carry out its duties.

(i) TERMINATION.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the Council.

(29 U.S.C. 765)

TITLE III—TRAINING AND DEMONSTRATION PROJECTS

PART A—TRAINING PROGRAMS AND COMMUNITY REHABILITATION PROGRAMS

DECLARATION OF PURPOSE

SEC. 301. The purpose of this title is to—

(1) authorize grants and contracts to—

(A) ensure that skilled personnel are available to provide rehabilitation services to individuals with disabilities through vocational, medical, social, and psychological rehabilitation programs, through supported employment programs, through independent living services programs, and through client assistance programs;

(B) maintain and upgrade basic skills and knowledge of personnel employed to provide state-of-the-art service delivery systems and rehabilitation technology services; and

(C) provide training and information to individuals with disabilities, the parents, families, guardians, advocates, and authorized representatives of the individuals, and other appropriate parties to develop the skills necessary for individuals with disabilities to access the rehabilitation system and to become active decisionmakers in the rehabilitation process;

(2) authorize grants for special projects and demonstrations which hold promise of expanding or otherwise improving rehabilitation services to individuals with disabilities, including individuals with spinal cord injuries, older individuals who are blind, and individuals who are deaf whose maximum vocational potential has not been reached, which experiment with new types of patterns of services or devices for the rehabilitation of individuals with disabilities (including opportunities for new careers for individuals with disabilities, and for other individuals in programs serving individuals with disabilities) and which provide vocational rehabilitation services to migratory agricultural workers who are individuals with disabilities or seasonal farmworkers who are individuals with disabilities;

(3) authorize grants and contracts to assist in the provision of vocational rehabilitation services to individuals with disabilities;

(4) authorize grants and contracts to assist in the development and improvement of community rehabilitation programs; and

(5) establish uniform grant and contract requirements for programs assisted under this title and certain other provisions of this Act.

(29 U.S.C. 770)

TRAINING

SEC. 302. (a)(1) The Commissioner may make grants to and contracts with States and public or nonprofit agencies and organizations, including institutions of higher education, to pay part of the cost of projects for training, traineeships, and related activities, including the provision of technical assistance, designed to assist in increasing the numbers of qualified personnel trained in providing vocational, medical, social, and psychological rehabilitation services, and other services provided under this Act, to individuals with disabilities, including (A) personnel specifically trained in providing employment assistance to individuals with disabilities through job development and job placement services, (B) personnel specifically trained to identify, assess, and meet the individual rehabilitation needs of individuals with severe disabilities, including needs for rehabilitation technology services, (C) personnel specifically trained to deliver services to individuals who may benefit from receiving independent living services, personnel specifically trained to deliver services in client assistance programs, (D) personnel specifically trained to deliver services, through supported employment programs, to individuals with the most severe disabilities, and (E) personnel trained in performing other functions necessary to the development of such services.

(2) Grants and contracts under paragraph (1) may be expended for scholarships, with necessary stipends and allowances.

(3) In carrying out this subsection, the Commissioner shall furnish training regarding the services provided under this Act, and, in particular, services provided in accordance with amendments made by the Rehabilitation Act Amendments of 1992, to rehabilitation counselors and other rehabilitation personnel. In carrying out this subsection, the Commissioner shall also furnish training to such counselors and personnel regarding the applicability of section 504 of this Act, title I of the Americans with Disabilities Act of 1990, and the provisions of titles II and XVI of the Social Security Act that are related to work incentives for individuals with disabilities.

(4) The Commissioner, in carrying out this subsection, shall make grants to Historically Black Colleges and Universities and other institutions of higher education whose minority student enrollment is at least 50 percent.

(5) No grant shall be awarded under this section unless the applicant has submitted an application to the Commissioner in such form, and in accordance with such procedures, as the Commissioner may require. Any such application shall include a detailed description of strategies that will be utilized to recruit and train persons so as to reflect the diverse populations of the United States, as part of the effort to increase the number of individuals with disabilities, and individuals who are members of minority groups, who are available to provide rehabilitation services.

(b)(1)(A) In making such grants or contracts, the Commissioner shall target funds made available for any year to areas of personnel shortage.

(B) Projects described in subsection (a) may include—

(i) projects to train personnel in the areas of vocational rehabilitation counseling, rehabilitation technology, rehabilitation medicine, rehabilitation nursing, rehabilitation social work, rehabilitation psychiatry, rehabilitation psychology, rehabilitation dentistry, physical therapy, occupational therapy, speech pathology and audiology, physical education, therapeutic recreation, community rehabilitation programs, or prosthetics and orthotics;

(ii) projects to train personnel to provide—

(I) services to individuals with specific disabilities or specific impediments to rehabilitation, including individuals who are members of populations that are unserved or underserved by programs under this Act;

(II) job development and job placement services to individuals with disabilities;

(III) supported employment services, including services of employment specialists for individuals with disabilities;

(IV) specialized services for individuals with severe disabilities; or

(V) recreation for individuals with disabilities; and

(iii) projects to train personnel in other fields contributing to the rehabilitation of individuals with disabilities.

(2)(A) Except as provided in subparagraph (B), no grant under this section may be used to provide any one course of study to an individual for a period of more than 4 years.

(B) If the grant recipient determines that an individual has a disability which seriously affects the completion of training under this section, the grant recipient may modify the limitation under subparagraph (A).

(3)(A) A recipient of a grant or contract under this section shall provide assurances that each individual who receives a scholarship, for any academic year beginning after June 1, 1992, utilizing funds provided under such grant or contract shall enter into an agreement with the recipient under which the individual shall—

(i) maintain employment—

(I) in a nonprofit rehabilitation agency or related agency or in a State rehabilitation agency or related agency, including a professional corporation or professional practice group through which the individual has a service arrangement with the designated State agency;

(II) on a full- or part-time basis; and

(III) for a period of not less than the full-time equivalent of 2 years for each year for which assistance under this section was received,

within a period, beginning after the recipient completes the training for which the scholarship was awarded, of not more than the sum of the number of years in the period described in subclause (III) and 2 additional years; and

(ii) repay all or part of any scholarship received, plus interest, if the individual does not fulfill the requirements of clause (i),

except as the Commissioner by regulation may provide for repayment exceptions and deferrals.

(B) The Commissioner shall be responsible for the enforcement of each agreement entered into under subparagraph (A) upon completion of training under such subparagraph.

(c) The Commissioner shall evaluate the impact of the training programs conducted under this section, shall determine training needs for qualified personnel necessary to provide services to individuals with disabilities, and shall develop a long-term rehabilitation manpower plan designed to target resources on areas of personnel shortage. The Commissioner shall prepare and submit to the Congress, simultaneously with the budget submission for the succeeding fiscal year for the Rehabilitation Services Administration, a report setting forth and justifying in detail how the training funds for the fiscal year prior to such submission are allocated by professional discipline and other program areas The report shall also contain findings on personnel shortages, how funds proposed for the succeeding fiscal year will be allocated under the President's budget proposal, and how the findings of personnel shortages justify the allocations.

(d) In carrying out subsection (a), the Commissioner shall award two grants to States, public or nonprofit private agencies and organizations, and institutions of higher education to support the development of rehabilitation technician programs. Such programs shall be designed to train local employees, who are recruited from or reside in a community historically unserved or underserved by programs providing vocational rehabilitation services under this Act, to be liaisons between the community and vocational rehabilitation counselors. The rehabilitation technician program shall provide a mechanism through which individuals with disabilities residing in remote, isolated settings can successfully access vocational rehabilitation services.

(e)(1) In carrying out subsection (a), the Commissioner shall award two grants to States, public or nonprofit private agencies and organizations, and institutions of higher education to support the formation of consortia or partnerships of public or nonprofit private entities for the purpose of providing opportunities for career advancement or competency-based training to current employees of public or nonprofit private agencies that provide services to individuals with disabilities. Such opportunities shall include certificate or degree granting programs in vocational rehabilitation services and related services.

(2) An entity that receives a grant under paragraph (1) may use the grant for purposes including—

(A) establishing a program with an institution of higher education to develop creative new programs and coursework options, or to expand existing programs, concerning the fields of vocational rehabilitation services and related services, including—

(i) providing release time for faculty and staff for curriculum development; and

(ii) paying for instructional costs and startup and other program development costs;

(B) establishing a career development mentoring program using faculty and professional staff members of participating agencies as role models, career sponsors, and academic advisors for experienced State, city, and county employees, and volunteers, who—

(i) have demonstrated a commitment to working in the fields described in clause (i); and

(ii) are enrolled in a program relating to such a field at an institution of higher education;

(C) supporting a wide range of programmatic and research activities aimed at increasing opportunities for career advancement and competency-based training in such fields; and

(D) identifying existing public or private agency and labor union personnel policies and benefit programs that may facilitate the ability of employees to take advantage of higher education opportunities, such as leave time and tuition reimbursement.

(3) In making grants for projects under paragraph (1), the Commissioner shall ensure that the projects shall be geographically distributed throughout the United States in urban and rural areas.

(4) The Commissioner shall, for the purpose of providing technical assistance to States or entities receiving grants under paragraph (1), enter into a cooperative agreement through a separate

competition with an entity that has successfully demonstrated the capacity and expertise in the education, training, and retention of employees to serve individuals with disabilities through the use of consortia or partnerships established for the purpose of retraining the existing work force and providing opportunities for career enhancement.

(5) The Commissioner may conduct an evaluation of projects funded under this subsection.

(6) During the period in which an entity is receiving financial assistance under paragraph (1), the entity may not receive financial assistance under paragraph (4).

(f)(1) For the purpose of training a sufficient number of interpreters to meet the communications needs of individuals who are deaf and individuals who are deaf-blind, the Secretary, through the Office of Deafness and Communicative Disorders, may award grants to any public or private nonprofit agency or organization to establish interpreter training programs or to provide financial assistance for ongoing interpreter training programs. The Secretary shall award grants for programs in such geographic areas throughout the United States as the Secretary considers appropriate to best carry out the purpose of this section. Priority shall be given to public or private nonprofit agencies or organizations with existing programs that have demonstrated their capacity for providing interpreter training services.

(2) No grant shall be awarded under paragraph (1) unless the applicant has submitted an application to the Secretary in such form, and in accordance with such procedures, as the Secretary may require. Any such application shall—

(A) describe the manner in which an interpreter training program would be developed and operated during the five-year period following the award of any grant under this section;

(B) demonstrate the applicant's capacity or potential for providing training for interpreters for individuals who are deaf and individuals who are deaf-blind;

(C) provide assurances that any interpreter trained or retrained under such program shall meet such minimum standards of competency as the Secretary may establish for purposes of this section; and

(D) contain such other information as the Secretary may require.

(g)(1) The Commissioner is authorized to provide technical assistance to State rehabilitation agencies and community rehabilitation programs, directly or through contracts with State vocational rehabilitation agencies or nonprofit organizations.

(2) An expert or consultant appointed or serving under contract pursuant to this section shall be compensated at a rate subject to approval of the Commissioner which shall not exceed the daily equivalent of the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382 of title 5, United States Code. Such an expert or consultant may be allowed travel and transportation expenses in accordance with section 5703 of title 5, United States Code.

(3)(A) Subject to subparagraph (B), at least 15 percent of the sums appropriated to carry out this section shall be allocated to designated State agencies to be used, directly or indirectly, for projects for in-service training of rehabilitation personnel, including projects designed—

(i) to address recruitment and retention of qualified rehabilitation professionals;

(ii) to provide for succession planning;

(iii) to provide for leadership development and capacity building; and

(iv) for fiscal years 1993 and 1994, to provide training regarding the amendments to this Act made by the Rehabilitation Act Amendments of 1992.

(B) If the allocation to designated State agencies required by subparagraph (A) would result in a lower level of funding for projects being carried out on the date of enactment of the Rehabilitation Act Amendments of 1992 by other recipients of funds under this section, the Commissioner may allocate less than 15 percent of the sums described in subparagraph (A) to designated State agencies for such in-service training.

(h) There are authorized to be appropriated to carry out this section, $31,000,000 for fiscal year 1987, $33,000,000 for fiscal year 1988, $35,000,000 for fiscal year 1989, $37,000,000 for fiscal year 1990, $38,517,000 for fiscal year 1991, and such sums as may be necessary for fiscal year 1992. There are further authorized to be appropriated for each such fiscal year such additional sums as the Congress may determine to be necessary to carry out this section.

(i)(1) Consistent with paragraph (2), and consistent with the general authority set forth in this section to fund training activities, nothing in this Act shall be construed to prohibit the Commissioner from exercising authority under this title, or making available funds appropriated to carry out this title, to fund the training activities described in section 803.

(2) If the amount of funds appropriated for a fiscal year to carry out this section exceeds the amount of funds appropriated for the preceding fiscal year to carry out this section, adjusted by the percent by which the average of the estimated gross domestic product fixed-weight price index for that fiscal year differs from that estimated index for the preceding fiscal year, the amount of the excess shall be treated as if the excess were appropriated under title VIII.

(29 U.S.C. 771a)

VOCATIONAL REHABILITATION SERVICES FOR INDIVIDUALS WITH DISABILITIES

SEC. 303. (a) For the purpose of making grants and entering into contracts under this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1993 through 1997.

(b)(1) The Commissioner is authorized to make grants to States and public or nonprofit organizations and agencies to pay up to 90 per centum of the cost of projects for providing vocational rehabilitation services or employment support services to individuals with disabilities, especially those with the most severe disabilities, in public or nonprofit community rehabilitation programs.

(2)(A) For purposes of this section, vocational rehabilitation services shall include—

(i) training with a view toward career advancement;

(ii) training (including on-the-job training) in occupational skills; and

(iii) services, including rehabilitation technology services, personal assistance services, and supported employment services and extended services, that—

(I) are related to training described in clause (i) or (ii); and

(II) are required by the individual to engage in such training.

(B) Pursuant to regulations, payment of weekly allowances may be made to individuals receiving vocational rehabilitation services and related services under this section. Such allowances may not be paid to any individual for any period in excess of two years. In determining the amount of such allowances for any individual, consideration shall be given to the individual's need for such an allowance, including any expenses reasonably attributable to receipt of vocational rehabilitation services, the extent to which such an allowance will help assure entry into and satisfactory completion of training, and such other factors, specified by the Commissioner, as will promote such individual's capacity to engage in competitive employment.

(3) The Commissioner may make a grant for a project pursuant to this subsection only if the Commissioner determines that (A) the purpose of such project is to prepare individuals with disabilities, especially those with the most severe disabilities, for competitive employment, or to place or retain such individual in competitive employment, including supported employment; (B) the individuals to receive vocational rehabilitation services under such project will include only those who have been determined to be in need of such vocational rehabilitation services by the State agency or agencies designated as provided in section 101(a)(1) of the State in which the community rehabilitation program is located; (C) the full range of vocational rehabilitation services will be made available to each such individual, to the extent of that individual's need for such services; and (D) the project, including the participating community rehabilitation program and the vocational rehabilitation services provided, meets such other requirements as the Commissioner may prescribe in regulations for carrying out the purposes of this subsection.

(c) The Commissioner is also authorized to make grants, upon applications approved by the designated State agency, to public or nonprofit agencies, institutions, or organizations to assist them in meeting the cost of planning community rehabilitation programs, the cost of the services to be provided by such programs, and initial staffing costs of such programs.

(d)(1) The Commissioner is authorized to make grants to public or nonprofit community rehabilitation programs, or to an organization or combination of such programs, to pay the Federal share of the cost of projects to analyze, improve, and increase their professional services to individuals with disabilities, their management effectiveness, or any other part of their operations affecting their capacity to provide employment and services for such individuals.

(2) No part of any grant made pursuant to this subsection may be used to pay costs of acquiring, constructing, expanding, remodeling, or altering any building.

(29 U.S.C. 772)

LOAN GUARANTEES FOR COMMUNITY REHABILITATION PROGRAMS

SEC. 304. (a) It is the purpose of this section to assist and encourage the provision of needed community rehabilitation programs for individuals with disabilities primarily served by State rehabilitation programs.

(b) The Commissioner may, under special circumstances and in accordance with this section and subject to section 306, guarantee the payment of principal and interest on loans made to nonprofit private entities by non-Federal lenders and by the Federal Financing Bank for the construction of facilities for community rehabilitation programs, including equipment used in their operation.

(c) In the case of a guarantee of any loan to a nonprofit private entity under this section, the Commissioner shall pay, to the holder of such loan and for and on behalf of the project for which the loan was made, amounts sufficient to reduce by 2 percent per annum the net effective interest rate otherwise payable on such loan. Each holder of a loan which is guaranteed under this section shall have a contractual right to receive from the United States interest payments required by the preceding sentence.

(d) The cumulative total of the principal of the loans outstanding at any time with respect to which guarantees have been issued, or which have been directly made, may not exceed $100,000,000.

(e)(1) The Commissioner may not approve a loan guarantee for a project under this section unless the Commissioner determines that (A) the terms, conditions, security (if any), and schedule and amount of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable, including a determination that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Commissioner determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States, and (B) the loan would not be available on reasonable terms and conditions without the guarantee under this section.

(2)(A) The United States shall be entitled to recover from the applicant for a loan guarantee under this section the amount of any payment made pursuant to such guarantee, unless the Commissioner for good cause waives such right of recovery. Upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made.

(B) To the extent permitted by subparagraph (C), any terms and conditions applicable to a loan guarantee under this section (including terms and conditions imposed under paragraph (1)) may be modified by the Commissioner to the extent considered consistent with the interests of the United States.

(C) Any loan guarantee made by the Commissioner under this section shall be incontestable (i) in the hands of an applicant on whose behalf such guarantee is made unless the applicant engaged in fraud or misrepresentation in securing such guarantee, and (ii) as to any person (or a successor in interest) who makes or contracts to make a loan to such applicant in reliance thereon unless such person (or a successor in interest) engaged in fraud or misrepresentation in making or contracting to make such loan.

(D) Guarantees of loans under this section shall be subject to such further terms and conditions as the Commissioner considers necessary to assure that the purposes of this section will be achieved.

(f)(1) There is established in the Treasury a loan guarantee fund (hereinafter in this subsection referred to as the "fund") which shall be available to the Commissioner without fiscal year limitation, in such amounts as may be specified from time to time in appropriation Acts—

(A) to enable the Commissioner to discharge the responsibilities under loan guarantees issued under this section; and

(B) for payment of interest under subsection (c) on loans guaranteed under this section.

There are authorized to be appropriated such amounts as may be necessary to provide the sums required for the fund. There shall also be deposited in the fund amounts received by the Commissioner in connection with loan guarantees under this section and other property or assets derived by the Commissioner from operations respecting such loan guarantees, including any money derived from the sale of assets.

(2)(A) If at any time the sums in the fund are insufficient to enable the Commissioner—

(i) to make payments of interest under subsection (c); or

(ii) to otherwise comply with guarantees under this section of loans to nonprofit private entities;

the Commissioner is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Commissioner with the approval of the Secretary of the Treasury.

(B) Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations.

(C) The Secretary of the Treasury shall purchase any notes and other obligations issued under this paragraph, and for that purpose the Secretary may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act. The purposes for which securities may be issued under that Act are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by the Secretary under this paragraph. All redemptions, purchases, and sales by the

Secretary of the Treasury of such notes or other obligations shall be treated as a public debt transaction of the United States.

(D) Sums borrowed under this paragraph shall be deposited in the fund and redemption of such notes and obligations shall be made by the Commissioner from the fund.

(29 U.S.C. 773)

COMPREHENSIVE REHABILITATION CENTERS

SEC. 305. (a)(1) In order to provide a focal point in communities for the development and delivery of services designed primarily for individuals with disabilities, the Commissioner may make grants to any designated State unit to establish and operate comprehensive rehabilitation centers. The centers shall be established in order to provide a broad range of services to individuals with disabilities, including information and referral services, counseling services, and job placement, health, educational, social, and recreational services, as well as to provide facilities for recreational activities.

(2) To the maximum extent practicable, such centers shall provide, upon request, to local governmental units and other public and private nonprofit entities located in the area such information and technical assistance (including support personnel such as interpreters for individuals who are deaf) as may be necessary to assist those entities in complying with this Act, particularly the requirements of section 504.

(b) No grant may be made under this section unless an application therefor has been submitted to and approved by the Commissioner. The Commissioner may not approve an application for a grant unless the application—

(1) contains assurances that the designated State unit will use funds provided by such grant in accordance with subsections (c) and (d); and

(2) contains such other information, and is submitted in such form and in accordance with such procedures, as the Commissioner may require.

(c)(1) The designated State unit may—

(A) in accordance with subsection (e) make grants to units of general purpose local government or to other public or nonprofit private agencies or organizations and may make contracts with any agency or organization to pay not to exceed 80 percent of the cost of—

(i) leasing facilities to serve as comprehensive rehabilitation centers;

(ii) expanding, remodeling, or altering facilities to the extent necessary to adapt them to serve as comprehensive rehabilitation centers;

(iii) operating such centers; or

(iv) carrying out any combination of the activities specified in this subparagraph; and

(B) directly carry out the activities described in subparagraph (A), except that not more than 80 percent of the costs of providing any comprehensive rehabilitation center may be provided from funds under this section.

(2) Funds made available to any designated State unit under this section for the purpose of assisting in the operation of a comprehensive rehabilitation center may be used to compensate professional and technical personnel required to operate the center and to deliver services in the center, and to provide equipment for the center.

(d)(1) The designated State unit may approve a grant or enter into a contract under subsection (c) only if the application for such grant or contract meets the requirements specified in paragraphs (1), (2), (4), and (5) of section 306(b) and if the application contains assurances that any center assisted by such grant or contract shall be in reasonably close proximity to the majority of individuals eligible to use the comprehensive rehabilitation center.

(2) Any designated State unit which directly provides for comprehensive rehabilitation centers under subsection (c)(1)(B) shall use funds under this section in the same manner as any other grant recipient is required to use such funds.

(e) If within 20 years after the completion of any construction project for which funds have been paid under this section—

(1) the owner of the facility ceases to be a public or nonprofit private agency or organization, or

(2) the facility ceases to be used for the purposes for which it was leased or constructed (unless the Commissioner determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation to do so),

the United States shall be entitled to recover from the grant recipient or other owner of the facility an amount which bears the same ratio to the value of the facility (or so much thereof as constituted an approved project or projects) at the time the United States seeks recovery as the amount of such Federal funds bore to the cost of renovating the facility under subsection (c)(1)(A)(ii). Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated.

(f) The requirements of section 306 shall not apply to funds allotted under this section, except that subsections (g) and (h) of such section shall be applicable with respect to such funds.

(g) There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1993 through 1997.

(29 U.S.C. 775)

GENERAL GRANT AND CONTRACT REQUIREMENTS

SEC. 306. (a) The provisions of this section shall apply to all projects approved and assisted under this title, except as otherwise provided in section 305(f). The Commissioner shall insure compliance with this section prior to making any grant or entering into any contract or agreement under this title, except projects authorized under section 303.

(b) To be approved, an application for assistance for a construction project, or for a project which involves construction, under this title must—

(1) contain or be supported by reasonable assurances that (A) for a period of not less than twenty years after completion of construction of the project it will be used as a public or nonprofit facility, (B) sufficient funds will be available to meet the non-Federal share of the cost of construction of the project, and (C) sufficient funds will be available, when construction of the project is completed, for its effective use for its intended purpose;

(2) provide that Federal funds provided to any agency or organization under this title will be used only for the purposes for which provided and in accordance with the applicable provisions of this section and the section under which such funds are provided;

(3) provide that the agency or organization receiving Federal funds under this title will make an annual report to the Commissioner, which the Commissioner shall submit to the Secretary for inclusion (in summarized form) in the annual report submitted to the Congress under section 13;

(4) be accompanied or supplemented by plans and specifications which have been approved by the Board established by section 502, in which due consideration shall be given to excellence of architecture and design, and to the inclusion of works of art (not representing more than 1 per centum of the cost of the project), and which comply with regulations prescribed by the Commissioner relating to minimum standards of construction and equipment (promulgated with particular emphasis on securing compliance with the requirements of the Architectural Barriers Act of 1968 (Public Law 90–480)), and with regulations of the Secretary of Labor relating to occupational health and safety standards for facilities for community rehabilitation programs; and

(5) contain or be supported by reasonable assurance that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on any construction aided by payments pursuant to any grant under this section will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a–5); and the Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176) and section 2 of the Act of June 13, 1934, as amended (42 U.S.C. 276c).

(c) Upon approval of any application for a grant or contract for a project under this title, the Commissioner shall reserve, from any appropriation available therefore, the amount of such grant or contract determined under this title. In case an amendment to an approved application is approved, or the estimated cost of a project is revised upward, any additional payment with respect thereto may be made from the appropriation from which the original reservation was made or the appropriation for the fiscal year in which such amendment or revision is approved.

(d) If, within twenty years after completion of any construction project for which funds have been paid under this title, the facility shall cease to be a public or nonprofit facility, the United States shall be entitled to recover from the applicant or other owner of the facility the amount bearing the same ratio to the then value (as determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated) of the facility, as the amount of the Federal participation bore to the cost of construction of such facility.

(e) Payment of assistance or reservation of funds made pursuant to this title may be made (after necessary adjustment on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments and on such conditions, as the Commissioner may determine.

(f) A project for construction of a facility for a community rehabilitation program which is primarily a workshop may, where approved by the Commissioner as necessary to the effective operation of the facility, include such construction as may be necessary to provide residential accommodations for use in connection with the rehabilitation of individuals with disabilities.

(g) No funds provided under this title may be used to assist in the construction of any facility which is or will be used for religious worship or any sectarian activity.

(h) When, in any State, funds provided under this title will be used for providing direct services to individuals with disabilities or for developing or improving community rehabilitation programs which will provide such services, such services must be carried out in a manner not inconsistent with the State plan approved pursuant to section 101.

(i) Prior to making any grant or entering into any contract under this title, the Commissioner shall afford reasonable opportunity to the appropriate State agency or agencies designated pursuant to section 101 to comment on such grant or contract.

(29 U.S.C. 776)

PART B—SPECIAL PROJECTS AND SUPPLEMENTARY SERVICES

AUTHORIZATION OF APPROPRIATIONS

SEC. 310. For the purpose of carrying out this part (other than sections 311(d), 311(e), 312, and 316), there are authorized to be appropriated such sums as may be necessary for each of fiscal years 1993 through 1997.

(29 U.S.C. 777)

SPECIAL DEMONSTRATION PROGRAMS

SEC. 311. (a) Subject to the provisions of section 306, the Commissioner may make grants to States and to public or nonprofit agenices and organizations to pay part or all of the costs of special projects and demonstrations (including related research and evaluation) for—

(1) establishing programs for providing vocational rehabilitation services, which hold promise of expanding or otherwise improving rehabilitation services to individuals with disabilities (especially those with the most severe disabilities), including individuals who are members of populations that are

unserved or underserved by the programs under this Act, individuals who are blind, and individuals who are deaf,[1]

(2) applying new types or patterns of services or devices for individuals with disabilities (including programs for providing individuals with disabilities, or other individuals in programs servicing individuals with disabilities, with opportunities for new careers and career advancement);

(3) operating programs to demonstrate methods of making recreational activities fully accessible to individuals with disabilities; and

(4) operating programs to meet the special needs of isolated populations of individuals with disabilities, particularly among American Indians residing on or outside of reservations.

(b)(1) The Commissioner may make grants to public and nonprofit agencies and organizations to pay part or all of the costs of special projects and demonstrations including research and evaluation for youths who are individuals with disabilities to provide job training and prepare them for entry into the labor force. Such projects shall be designed to demonstrate cooperative efforts between local educational agencies, business and industry, vocational rehabilitation programs, and organizations representing labor and organizations responsible for promoting or assisting in local economic development.

(2) Services under this subsection may include—

(A) jobs search assistance;

(B) on-the-job training;

(C) job development including worksite modification and use of advanced learning technology for skills training;

(D) dissemination of information on program activities to business and industry; and

(E) followup services for individuals placed in employment.

(3) The Commissioner shall assure that projects shall be coordinated with other projects assisted under section 626 of the Individuals with Disabilities Education Act.

(c)(1)(A) The Commissioner may make grants to public and non-profit community rehabilitation programs, designated State units, and other public and private agencies and organizations for the cost of developing special projects and demonstrations providing supported employment, including continuation of determinations of the effectiveness of natural supports or other alternatives to providing extended employment services.

(B) Not less than one such grant shall be nationwide in scope. The grant shall (i) identify community-based models that can be replicated, (ii) identify impediments to the development of supported employment programs (including funding and cost considerations), (iii) develop a mechanism to explore the use of existing community rehabilitation programs as well as other community-based programs.

(C) Not less than two such grants shall serve individuals who either are low-functioning and deaf or low-functioning and hard-of-hearing.

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[1] So in law. See section 308(a)(1)(B) of Public Law 102–569 (106 Stat. 4418). The paragraph probably should end with a semicolon.

(2)(A) The Commissioner may make grants to public agencies and nonprofit private organizations for the cost of providing technical assistance to States in implementing part C of title VI of this Act.

(B) Not less than one such grant shall be nationwide in scope. Each eligible applicant must have experience in training and provision of supported employment services.

(3)(A) On June 1 of each year, the Commissioner shall submit a report to the Congress on activities assisted under paragraph (1) for the preceding fiscal year which includes—

(i) a list of the grants awarded under this subsection;

(ii) the number of individuals with severe disabilities served by each grant recipient, the average cost to provide support services to each such individual, and the average wage paid to each such individual; and

(iii) the recommendations of the projects under paragraph (1)(B).

(B) Each such report shall also include activities assisted under paragraph (2) for the preceding fiscal year, including (i) a list of the grants awarded under paragraph (2), (ii) the nature of technical assistance activities undertaken, and (iii) recommended areas where additional technical assistance is necessary.

(4) There are authorized to be appropriated to carry out the provisions of this subsection such sums as may be necessary for each of fiscal years 1993 through 1997.

(d)(1) The Commissioner, subject to the provisions of section 306, shall make grants in accordance with the provisions of this subsection for the purpose of developing, expanding, and disseminating model statewide transitional planning services for youths who are individuals with severe disabilities. In order to facilitate similar model transitional programs, each grantee under this subsection shall—

(A) collect data documenting the effectiveness of the project, including data on the outcome of the individuals served; and

(B) disseminate the information to other States.

(2) No grant may be made under this subsection unless an application is submitted to the Commissioner at such time, in such form, and in accordance with such procedures as the Commissioner may require.

(3)(A) A second grant authorized by this subsection shall be made to a public agency in a predominantly rural western State.

(B) Each application for a grant submitted pursuant to subparagraph (A) of this paragraph shall describe model transitonal planning services for both youths who are individuals with severe disabilities and other youths with disabilities designed to develop procedures, strategies, and techniques which may be replicated successfully in other rural States.

(4) There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1993 through 1997.

(e)(1) The Commissioner may make grants to public or private institutions to pay for the cost of developing special projects and demonstration projects to address the general education, counseling, vocational training, work transition, supported employment, job placement, followup, and community outreach needs of individuals who are either low-functioning and deaf or low-functioning and hard-of-hearing. Such projects shall provide educational and vocational rehabilitation services that are not otherwise available in the region involved and shall maximize the potential of such individuals, including individuals who are deaf and have additional severe disabilities.

(2) The Commissioner shall monitor the activities of the recipients of grants under this subsection to ensure that the recipients carry out the projects in accordance with paragraph (1), that the recipients coordinate the projects as described in paragraph (3), and that information about innovative methods of service delivery developed by such projects is disseminated.

(3) The Commissioner shall prepare and submit an annual report to Congress that includes an assessment of the manner in which the recipients carrying out the projects coordinate the projects with projects carried out by other public or nonprofit agencies serving individuals who are deaf, to expand or improve services for such individuals.

(f)(1) Consistent with paragraph (2), and consistent with the general authority set forth in this section to fund special demonstration programs, projects, and activities, nothing in this Act shall be construed to prohibit the Commissioner from exercising authority under this title, or making available funds appropriated to carry out this title, to fund programs, projects, and activities described in section 802.

(2) If the amount of funds appropriated for a fiscal year to carry out this section exceeds the amount of funds appropriated for the preceding fiscal year to carry out this section, adjusted by the percent by which the average of the estimated gross domestic product fixed-weight price index for that fiscal year differs from that estimated index for the preceding fiscal year, the amount of the excess shall be treated as if the excess were appropriated under title VIII.

(29 U.S.C. 777a)

MIGRATORY WORKERS

SEC. 312.(a) The Commissioner, subject to the provisions of section 306, is authorized to make grants to any State agency designated pursuant to a State plan approved under section 101, to nonprofit agencies working in collaboration with such State agency, or to any local agency participating in the administration of such a plan, to pay up to 90 per centum of the cost of projects or demonstrations for the provision of vocational rehabilitation services to individuals with disabilities, as determined in accordance with rules prescribed by the Secretary of Labor, who are migratory agricultural workers or seasonal farmworkers, and to members of their families (whether or not such family members are individuals with disabilities) who are with them, including maintenance and transportation of such individuals and members of their families where necessary to the rehabilitation of such individuals. Maintenance payments under this section shall be consistent with any maintenance payments made to other individuals with disabilities in the

State under this Act. Such grants shall be conditioned upon satisfactory assurance that in the provision of such services there will be appropriate cooperation between the grantee and other public or nonprofit agencies and organizations having special skills and experience in the provision of services to migratory agricultural workers, seasonal farmworkers, or their families. This section shall be administered in coordination with other programs serving migrant agricultural workers and seasonal farmworkers, including programs under title I of the Elementary and Secondary Education Act of 1965, section 311 of the Economic Opportunity Act of 1964, the Migrant Health Act, and the Farm Labor Contractor Registration Act of 1963.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal years 1993 through 1997 such sums as may be necessary to carry out this section.

(29 U.S.C. 777b)

READER SERVICES FOR INDIVIDUALS WHO ARE BLIND

SEC. 314. (a) The Commissioner may award grants to States or to private nonprofit agencies or organizations of national scope (as so determined by the Commissioner) to—

(1) provide reading services to individuals who are blind and who are not otherwise eligible for such services through other State or Federal programs; and

(2) expand the quality and scope of reading services available to individuals who are blind, and to assure to the maximum extent possible that the reading services provided under this Act will meet the reading needs of such individuals attending institutions providing elementary, secondary, or postsecondary education, and will be adequate to assist such individuals to obtain and continue in employment.

Any State which receives a grant under this section shall administer the reading services for which such grant is awarded through the designated State unit of the State.

(b) No grant shall be awarded under this section unless the applicant has submitted an application to the Secretary in such form, at such time, and containing such information as the Secretary may require.

(c) For purposes of this section, the term "reading services" means—

(1) the employment of persons who, by reading aloud, can afford individuals who are blind ready access to printed information;

(2) the transcription of printed information into braille or sound recordings if such transcription is performed pursuant to individual requests from individuals who are blind for such services;

(3) the storage and distribution of braille materials and sound recordings;

(4) the purchase, storage, and distribution of equipment and materials necessary for the production, duplication, and reproduction of braille materials and sound recordings;

(5) the purchase, storage, and distribution of equipment to individuals who are blind to provide them with individual access to printed materials by mechanical or electronic means; and

(6) radio reading services for individuals who are blind.

(29 U.S.C. 777d)

INTERPRETER SERVICES FOR INDIVIDUALS WHO ARE DEAF

SEC. 315. (a) The Commissioner may make grants to designated State units to establish within each State a program of interpreter services (including interpreter referral services) which shall be made available to individuals who are deaf and to any public agency or private nonprofit organization involved in the delivery of assistance or services to individuals who are deaf.

(b) No grant may be made under this section unless an application therefor is submitted to the Commissioner in such form, at such times, and in accordance with such procedures as the Commissioner may require. Such application shall—

(1) provide assurances that the program to be conducted under this section will be operated in areas within the State which are specifically selected to provide convenient locations for the provision of services to the maximum feasible number of individuals who are deaf;

(2) include a plan which describes, in sufficient detail, the manner in which interpreter referral services will be coordinated with the information and referral programs required under section 101(a)(22);

(3) provide assurances that the program will seek to enter into contractual or other arrangements, to the extent appropriate, with private nonprofit organizations comprised of primarily hearing-impaired individuals (or private nonprofit organizations which have the primary purpose of providing assistance or services to hearing-impaired individuals) for the operation of such programs;

(4) provide that any interpreter participating in the program shall be required to meet minimum standards established by the Commissioner; and

(5) contain such other information as the Secretary may require.

(c) Any designated State unit receiving funds under this section may provide interpreter services, without cost, for a period of not to exceed one year to any public agency or private nonprofit organization which provides assistance to individuals who are deaf. At the end of such period, agencies or organizations receiving such services through referrals shall reimburse the designated State unit for the costs of such services. Funds may also be used for the purchase or rental of equipment necessary to provide assistance or services to individuals who are deaf.

(d) Funds provided to any designated State unit for any program under this section shall not be used for any administrative or related costs, nor shall such funds be used for assistance to individuals who are deaf and who are receiving rehabilitation services under any other provision of this Act.

(29 U.S.C. 777e)

SPECIAL RECREATIONAL PROGRAMS

SEC. 316. (a)(1) The Commissioner, subject to the provisions of section 306, shall make grants to States, public agencies, and nonprofit private organizations for paying the Federal share of the cost of initiation of recreation programs to provide handicapped individuals[1] with recreational activities and related experiences to aid in the employment, mobility, socialization, independence, and community integration of such individuals. The programs authorized to be assisted under this section may include, but are not limited to, vocational skills development, leisure education, leisure networking, leisure resource development, physical education and sports, scouting and camping, 4–H activities, music, dancing, handicrafts, art, and homemaking. Whenever possible and appropriate, such programs and activities should be provided in settings with peers who are not individuals with disabilities. Programs and activities under this section shall be designed to demonstrate ways in which such programs assist in maximizing the independence and integration of individuals with disabilities.

(2) Each such grant shall be made for a period of not more than 3 years. Such a grant shall not be renewable, except that the Commissioner may renew such a grant if the Commissioner determines that the grant recipient will continue to develop model or innovative programs of exceptional merit or will contribute substantially to the development or improvement of special recreational programs in other locations.

(3) No grant may be made under this section unless the agreement with respect to such grant contains provisions to assure that, to the extent possible, existing resources will be used to carry out the activities for which the grant is to be made.

(4) To be eligible to receive a grant under this section, a State, agency, or organization shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require, including a description of—

(A) the manner in which the findings and results of the project will be made generally available; and

(B) the means by which the service program will be continued after Federal assistance ends.

(5) Recreation programs funded under this section shall maintain, at a minimum, the same level of services over a 3-year project period.

(6) The Commissioner shall, not later than 180 days after the date of enactment of the Rehabilitation Act Amendments of 1992, develop means to objectively evaluate, and encourage the replication of, activities assisted by this section.

(7) The Commissioner shall require each recipient of a grant under this section to annually prepare and submit a report on the

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[1] So in law. Probably should be "individuals with disabilities". Section 103(d)(2)(C) of Public Law 99–506 amended this Act by striking "handicapped individuals" and inserting "individuals with handicaps", but section 407 of that Public Law amended section 316 to read as provided above. As a result of such section 407, the amendatory instructions of section 102(p)(25)(A) of Public Law 102–569 (106 Stat. 4360) to strike "individuals with handicaps" each place such term appears and to insert "individuals with disabilities" are not applicable to the above reference to "handicapped individuals".

results of the activities assisted by the grant. The Commissioner shall not make financial assistance available to a grant recipient for a subsequent year until the Commissioner has received and evaluated such a report from the recipient regarding the current year.

(8) The Commissioner shall annually issue and provide for the dissemination of a report describing the findings and results of programs funded by this section.

(9) The Federal share of the costs of the recreation programs shall be 100 percent for the first year of the grant, 75 percent for the second year, and 50 percent for the third year.

(b) There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1993 through 1997.

(29 U.S.C. 777f)

TITLE IV—NATIONAL COUNCIL ON DISABILITY

ESTABLISHMENT OF NATIONAL COUNCIL ON DISABILITY

SEC. 400. (a)(1)(A) There is established within the Federal Government[1] a National Council on Disability (hereinafter in this title referred to as the "National Council"), which shall be composed of fifteen members appointed by the President, by and with the advice and consent of the Senate.

(B) The President shall select members of the National Council after soliciting recommendations from representatives of—

(i) organizations representing a broad range of individuals with disabilities; and

(ii) organizations interested in individuals with disabilities.

(C) The members of the National Council shall be individuals with disabilities or individuals who have substantial knowledge or experience relating to disability policy or programs. The members of the National Council shall be appointed so as to be representative of individuals with disabilities, national organizations concerned with individuals with disabilities, providers and administrators of services to individuals with disabilities, individuals engaged in conducting medical or scientific research relating to individuals with disabilities, business concerns, and labor organizations. A majority of the members of the National Council shall be individuals with disabilities, or parents or guardians of individuals with disabilities. The members of the National Council shall be broadly representative of minority and other individuals and groups.

(2) The purpose of the National Council is to promote policies, programs, practices, and procedures that—

(A) guarantee equal opportunity for all individuals with disabilities, regardless of the nature or severity of the disability; and

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[1] Section 141(b) of Public Law 98–221, which removed the National Council from within the Department of Education, provided that all functions of the Chairman of the Council and of the Secretary of Education relating to the Council prior to the enactment of Public Law 98–122 shall be the functions of the Chairman of the independent Council. References in any statute or other official document or proceeding to the Department of Education or Secretary of Education with respect to functions or activities relating to the National Council shall be deemed to refer to the National Council or the Chairman, respectively.

(B) empower individuals with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.

(b)(1) Each member of the National Council shall serve for a term of 3 years, except that the terms of service of the members initially appointed after the date of enactment of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 shall be (as specified by the President) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

(2)(A) No member of the Council may serve more than two consecutive full terms beginning on the date of initial service on the Council. Members may serve after the expiration of their terms until their successors have taken office.

(B) As used in this paragraph:

(i) The term "full term" means a term of 3 years.

(ii) The term "date of initial service" means, with respect to a member, the date on which the member is sworn in.

(3) Any member appointed to fill a vacancy occurring before the expiration of the term for which such member's predecessor was appointed shall be appointed only for the remainder of such term.

(c) The President shall designate the Chairperson from among the members appointed to the National Council. The National Council shall meet at the call of the Chairperson, but not less often than four times each year.

(d) Eight members of the National Council shall constitute a quorum and any vacancy in the National Council shall not affect its power to function.

(29 U.S.C. 780)

DUTIES OF NATIONAL COUNCIL

SEC. 401. (a) The National Council shall—

(1) provide advice to the Director with respect to the policies and conduct of the National Institute on Disability and Rehabilitation Research, including ways to improve research concerning individuals with disabilities and the methods of collecting and disseminating findings of such research;

(2) provide advice to the Commissioner with respect to the policies of and conduct of the Rehabilitation Services Administration;

(3) advise the President, the Congress, the Commissioner, the appropriate Assistant Secretary of the Department of Education, and the Director of the National Institute on Disability and Rehabilitation Research on the development of the programs to be carried out under this Act;

(4) provide advice regarding priorities for the activities of the Interagency Disability Coordinating Council and review the recommendations of such Council for legislative and administrative changes to ensure that such recommendations are consistent with the purposes of the Council to promote the full integration, independence, and productivity of individuals with disabilities;

(5) review and evaluate on a continuing basis—

(A) policies, programs, practices, and procedures concerning individuals with disabilities conducted or assisted by Federal departments and agencies, including programs established or assisted under this Act or under the Developmental Disabilities Assistance and Bill of Rights Act; and

(B) all statutes and regulations pertaining to Federal programs which assist such individuals with disabilities;

in order to assess the effectiveness of such policies, programs, practices, procedures, statutes, and regulations in meeting the needs of individuals with disabilities;

(6) assess the extent to which such policies, programs, practices, and procedures facilitate or impede the promotion of the policies set forth in subparagraphs (A) and (B) of section 400(a)(2);

(7) gather information about the implementation, effectiveness, and impact of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

(8) make recommendations to the President, the Congress, the Secretary, the Director of the National Institute on Disability and Rehabilitation Research, and other officials of Federal agencies, respecting ways to better promote the policies set forth in section 400(a)(2);

(9) not later than March 31 of each year, prepare and submit to the Congress and the President a report containing a summary of the activities and accomplishments of the Council with respect to the duties described in paragraphs (1) through (8);

(10) provide to the Congress on a continuing basis advice, recommendations, legislative proposals, and any additional information which the Council or the Congress deems appropriate; and

(11) review and evaluate on a continuing basis new and emerging disability policy issues affecting individuals with disabilities at the Federal, State, and local levels, and in the private sector, including the need for and coordination of adult services, access to personal assistance services, school reform efforts and the impact of such efforts on individuals with disabilities, access to health care, and policies that operate as disincentives for the individuals to seek and retain employment.

(b)(1) Not later than October 31, 1993, and annually thereafter, the National Council shall prepare and submit to the President and the appropriate committees of the Congress a report entitled "National Disability Policy: A Progress Report".

(2) The report shall assess the status of the Nation in achieving the policies set forth in section 400(a)(2), with particular focus on the new and emerging issues impacting on the lives of individuals with disabilities. The report shall present, as appropriate, available data on health, housing, employment, insurance, transportation, recreation, training, prevention, early intervention, and education. The report shall include recommendations for policy change.

(3) In determining the issues to focus on and the findings, conclusions, and recommendations to include in the report, the Council shall seek input from the public, particularly individuals with disabilities, representatives of organizations representing a broad range of individuals with disabilities, and organizations and agencies interested in individuals with disabilities.

(29 U.S.C. 781)

COMPENSATION OF NATIONAL COUNCIL MEMBERS

SEC. 402. (a) Members of the National Council shall be entitled to receive compensation at a rate equal to the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382 of title 5, United States Code, including travel time, for each day they are engaged in the performance of their duties as members of the National Council.

(b) Members of the National Council who are full-time officers or employees of the United States shall receive no additional pay on account of their service on the National Council except for compensation for travel expenses as provided under subsection (c) of this section.

(c) While away from their homes or regular places of business in the performance of services for the National Council, members of the National Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(29 U.S.C. 782)

STAFF OF NATIONAL COUNCIL

SEC. 403. (a)(1) The National Council may appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, or the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, an Executive Director to assist the National Council to carry out its duties. The Executive Director shall be appointed from among individuals who are experienced in the planning or operation of programs for individuals with disabilities.

(2) The Executive Director is authorized to hire not to exceed seven technical and professional employees to assist the National Council to carry out its duties.

(b)(1) The National Council may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code (but at rates for individuals not to exceed the daily equivalent of the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382 of title 5, United States Code).

(2) The National Council may—

(A) accept voluntary and uncompensated services, notwithstanding the provisions of section 1342 of title 31, United States Code;

(B) in the name of the Council, accept, employ, and dispose of, in furtherance of this Act, any money or property, real or personal, or mixed, tangible or nontangible, received by gift, devise, bequest, or otherwise; and

(C) enter into contracts and cooperative agreements with Federal and State agencies, private firms, institutions, and individuals for the conduct of research and surveys, preparation of reports and other activities necessary to the discharge of the Council's duties and responsibilities.

(3) Not more than 10 per centum of the total amounts available to the National Council in each fiscal year may be used for official representation and reception.

(c) The Administrator of General Services shall provide to the National Council on a reimbursable basis such administrative support services as the Council may request.

(29 U.S.C. 783)

ADMINISTRATIVE POWERS OF NATIONAL COUNCIL

SEC. 404. (a) The National Council may prescribe such bylaws and rules as may be necessary to carry out its duties under this title.

(b) The National Council may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as it deems advisable.

(c) The National Council may appoint advisory committees to assist the National Council in carrying out its duties. The members thereof shall serve without compensation.

(d) The National Council may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(e) The National Council may use, with the consent of the agencies represented on the Interagency Disability Coordinating Council, and as authorized in title V, such services, personnel, information, and facilities as may be needed to carry out its duties under this title, with or without reimbursement to such agencies.

(29 U.S.C. 784)

AUTHORIZATION OF APPROPRIATIONS

SEC. 405. There are authorized to be appropriated to carry out this title such sums as may be necessary for each of the fiscal years 1993 through 1997.

(29 U.S.C. 785)

TITLE V—RIGHTS AND ADVOCACY

EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES

SEC. 501. (a) There is established within the Federal Government an Interagency Committee on Employees who are Individuals with Disabilities (hereinafter in this section referred to as the "Committee"), comprised of such members as the President may select, including the following (or their designees whose positions are Executive Level IV or higher): the Chairman of the Equal Employment Opportunity Commission, (hereafter in this section referred to as the "Commission"), the Director of the Office of Personnel

Management, the Secretary of Veterans Affairs[1] the Secretary of Labor, the Secretary of Education, and the Secretary of Health and Human Services. Either the Director of the Office of Personnel Management and the Chairman of the Commission shall serve as co-chairpersons of the Committee or the Director or Chairman shall serve as the sole chairperson of the Committee, as the Director and Chairman jointly determine, from time to time, to be appropriate. The resources of the President's Committees on Employment of People With Disabilities and on Mental Retardation[2] shall be made fully available to the Committee. It shall be the purpose and function of the Committee (1) to provide a focus for Federal and other employment of individuals with disabilities, and to review, on a periodic basis, in cooperation with the Commission, the adequacy of hiring, placement, and advancement practices with respect to individuals with disabilities, by each department, agency, and instrumentality in the executive branch of Government, and to insure that the special needs of such individuals are being met; and (2) to consult with the Commission to assist the Commission to carry out its responsibilities under subsections (b), (c), and (d) of this section. On the basis of such review and consultation, the Committee shall periodically make to the Commission such recommendations for legislative and administrative changes as it deems necessary or desirable. The Commission shall timely transmit to the appropriate committees of Congress any such recommendations.

(b) Each department, agency, and instrumentality (including the United States Postal Service and the Postal Rate Office) in the executive branch shall, within one hundred and eighty days after the date of enactment of this Act, submit to the Commission and to the Committee an affirmative action program plan for the hiring, placement, and advancement of individuals with disabilities in such department, agency, or instrumentality. Such plan shall include a description of the extent to which and methods whereby the special needs of employees who are individuals with disabilities are being met. Such plan shall be updated annually, and shall be reviewed annually and approved by the Commission, if the Commission determines, after consultation with the Committee, that such plan provides sufficient assurances, procedures, and commitments to provide adequate hiring, placement, and advancement opportunities for individuals with disabilities.

(c) The Commission, after consultation with the Committee, shall develop and recommend to the Secretary for referral to the appropriate State agencies, policies and procedures which will facilitate the hiring, placement, and advancement in employment of individuals who have received rehabilitation services under State vocational rehabilitation programs, veterans' programs, or any other program for individuals with disabilities, including the promotion of job opportunities for such individuals. The Secretary shall encourage such State agencies to adopt and implement such policies and procedures.

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[1] So in law. See section 503(a)(1) of Public Law 102–569 (106 Stat. 4424). The word "Affairs" probably should be followed by a comma.

[2] Section 206(a)(3)(C) of Public Law 100–630 provided that section 501(a) is amended by striking "Employment of the Handicapped" in the second sentence and inserting "Employment of People With Disabilities". The amendment has been executed to the third sentence to effectuate the probable intent of the Congress.

(d) The Commission, after consultation with the Committee, shall, on June 30, 1974, and at the end of each subsequent fiscal year, make a complete report to the appropriate committees of the Congress with respect to the practices of and achievements in hiring, placement, and advancement of individuals with disabilities by each department, agency, and instrumentality and the effectiveness of the affirmative action programs required by subsection (b) of this section, together with recommendations as to legislation which have been submitted to the Commission under subsection (a) of this section, or other appropriate action to insure the adequacy of such practices. Such report shall also include an evaluation by the Committee of the effectiveness of the activities of the Commission under subsection (b) and (c) of this section.

(e) An individual who, as a part of an individualized written rehabilitation program under a State plan approved under this Act, participates in a program of unpaid work experience in a Federal agency, shall not, by reason thereof, be considered to be a Federal employee or to be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, leaves, unemployment compensation, and Federal employee benefits.

(f)(1) The Secretary of Labor and the Secretary of Education are authorized and directed to cooperate with the President's Committee on Employment of People With Disabilities in carrying out its functions.

(2) In selecting personnel to fill all positions on the President's Committee on Employment of People With Disabilities, special consideration shall be given to qualified individuals with disabilities.

(g) The standards used to determine whether this section has been violated in a complaint alleging nonaffirmative action employment discrimination under this section shall be the standards applied under title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) and the provisions of sections 501 through 504, and 510, of the Americans with Disabilities Act of 1990 (42 U.S.C. 12201–12204 and 12210), as such sections relate to employment.

(29 U.S.C. 791)

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SEC. 502. (a)(1) There is established within the Federal Government the Architectural and Transportation Barriers Compliance Board (hereinafter referred to as the "Access Board") which shall be composed as follows:

(A) Thirteen members shall be appointed by the President from among members of the general public of whom at least a majority shall be individuals with disabilities.

(B) The remaining members shall be the heads of each of the following departments or agencies (or their designees whose positions are executive level IV or higher):

(i) Department of Health and Human Services.

(ii) Department of Transportation.

(iii) Department of Housing and Urban Development.
(iv) Department of Labor.
(v) Department of the Interior.
(vi) Department of Defense.
(vii) Department of Justice.
(viii) General Services Administration.
(ix) Department of Veterans Affairs.
(x) United States Postal Service.
(xi) Department of Education.
(xii) Department of Commerce.

The Chairperson[1] and vice-chairperson of the Access Board shall be elected by majority vote of the members of the Access Board to serve for terms of one year. When the chairperson is a member of the general public, the vice-chairperson shall be a Federal official; and when the chairperson is a Federal official, the vice-chairperson shall be a member of the general public. Upon the expiration of the term as chairperson of a member who is a Federal official, the subsequent chairperson shall be a member of the general public; and vice versa.

(2)(A)(i) The term of office of each appointed member of the Access Board shall be 4 years, except as provided in clause (ii). Each year, the terms of office of at least three appointed members of the Access Board shall expire.

(ii)(I) One member appointed for a term beginning December 4, 1992 shall serve for a term of 3 years.

(II) One member appointed for a term beginning December 4, 1993 shall serve for a term of 2 years.

(III) One member appointed for a term beginning December 4, 1994 shall serve for a term of 1 year.

(IV) Members appointed for terms beginning before December 4, 1992 shall serve for terms of 3 years.

(B) A member whose term has expired may continue to serve until a successor has been appointed.

(C) A member appointed to fill a vacancy shall serve for the remainder of the term to which that member's predecessor was appointed.

(3) If any appointed member of the Access Board becomes a Federal employee, such member may continue as a member of the Access Board for not longer than the sixty-day period beginning on the date the member becomes a Federal employee.

(4) No individual appointed under paragraph (1)(A) of this subsection who has served as a member of the Access Board may be reappointed to the Access Board more than once unless such individual has not served on the Access Board for a period of two years prior to the effective date of such individual's appointment.

(5)(A) Members of the Access Board who are not regular full-time employees of the United States shall, while serving on the business of the Access Board, be entitled to receive compensation at rates fixed by the President, but not to exceed the daily equivalent of the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382 of title 5, United States Code, including travel time, for each day they are engaged in the performance of their duties as members of the Access Board; and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out their duties under this section.

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[1] So in law. Probably should not be capitalized.

(B) Members of the Access Board who are employed by the Federal Government shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out their duties under this section.

(6)(A) The Access Board shall establish such bylaws and other rules as may be appropriate to enable the Access Board to carry out its functions under this Act.

(B) The bylaws shall include quorum requirements. The quorum requirements shall provide that (i) a proxy may not be counted for purposes of establishing a quorum, and (ii) not less than half the members required for a quorum shall be members of the general public appointed under paragraph (1)(A).

(b) It shall be the function of the Access Board to—

(1) ensure compliance with the standards prescribed pursuant to the Act entitled "An Act to ensure that certain buildings financed with Federal funds are so designed and constructed as to be accessible to the physically handicapped", approved August 12, 1968 (commonly known as the Architectural Barriers Act of 1968; 42 U.S.C. 4151 et seq.) (including the application of such Act to the United States Postal Service), including enforcing all standards under such Act, and ensuring that all waivers and modifications to the standards are based on findings of fact and are not inconsistent with the provisions of this section;

(2) develop advisory guidelines for, and provide appropriate technical assistance to, individuals or entities with rights or duties under regulations prescribed pursuant to this title or titles II and III of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131 et seq. and 12181 et seq.) with respect to overcoming architectural, transportation, and communication barriers;

(3) establish and maintain minimum guidelines and requirements for the standards issued pursuant to the Act commonly known as the Architectural Barriers Act of 1968 and titles II and III of the Americans with Disabilities Act of 1990;

(4) promote accessibility throughout all segments of society;

(5) investigate and examine alternative approaches to the architectural, transportation, communication, and attitudinal barriers confronting individuals with disabilities, particularly with respect to telecommunications devices, public buildings and monuments, parks and parklands, public transportation (including air, water, and surface transportation, whether interstate, foreign, intrastate, or local), and residential and institutional housing;

(6) determine what measures are being taken by Federal, State, and local governments and by other public or nonprofit agencies to eliminate the barriers described in paragraph (5);

(7) promote the use of the International Accessibility Symbol in all public facilities that are in compliance with the

standards prescribed by the Administrator of General Services, the Secretary of Defense, and the Secretary of Housing and Urban Development pursuant to the Act commonly known as the Architectural Barriers Act of 1968;

(8) make to the President and to the Congress reports that shall describe in detail the results of its investigations under paragraphs (5) and (6);

(9) make to the President and to the Congress such recommendations for legislative and administrative changes as the Access Board determines to be necessary or desirable to eliminate the barriers described in paragraph (5); and

(10) ensure that public conveyances, including rolling stock, are readily accessible to, and usable by, individuals with physical disabilities.

(c) The Access Board shall also (1)(A) determine how and to what extent transportation barriers impede the mobility of individuals with disabilities and aged individuals with disabilities and consider ways in which travel expenses in connection with transportation to and from work for individuals with disabilities can be met or subsidized when such individuals are unable to use mass transit systems or need special equipment in private transportation, and (B) consider the housing needs of individuals with disabilities; (2) determine what measures are being taken, especially by public and other nonprofit agencies and groups having an interest in and a capacity to deal with such problems, (A) to eliminate barriers from public transportation systems (including vehicles used in such systems), and to prevent their incorporation in new or expanded transportation systems, and (B) to make housing available and accessible to individuals with disabilities or to meet sheltered housing needs; and (3) prepare plans and proposals for such further actions as may be necessary to the goals of adequate transportation and housing for individuals with disabilities, including proposals for bringing together in a cooperative effort, agencies, organizations, and groups already working toward such goals or whose cooperation is essential to effective and comprehensive action.

(d)(1) The Access Board shall conduct investigations, hold public hearings, and issue such orders as it deems necessary to ensure compliance with the provisions of the Acts cited in subsection (b). Except as provided in paragraph (3) of subsection (e), the provisions of subchapter II of chapter 5, and chapter 7 of title 5, United States Code, shall apply to procedures under this section, and an order of compliance issued by the Access Board shall be a final order for purposes of judicial review. Any such order affecting any Federal department, agency, or instrumentality of the United States shall be final and binding on such department, agency, or instrumentality. An order of compliance may include the withholding or suspension of Federal funds with respect to any building or public conveyance or rolling stock found not to be in compliance with standards enforced under this section. Pursuant to chapter 7 of title 5, United States Code, any complainant or participant in a proceeding under this subsection may obtain review of a final order issued in such proceeding.

(2) The Executive Director is authorized, at the direction of the Access Board—

(A) to bring a civil action in any appropriate United States district court to enforce, in whole or in part, any final order of the Access Board under this subsection; and

(B) to intervene, appear, and participate, or to appear as amicus curiae, in any court of the United States or in any court of a State in civil actions that relate to this section or to the Architectural Barriers Act of 1968.

Except as provided in section 518(a) of title 28, United States Code, relating to litigation before the Supreme Court, the executive director may appear for and represent the Access Board in any civil litigation brought under this section.

(e)(1) There shall be appointed by the Access Board an executive director and such other professional and clerical personnel as are necessary to carry out its functions under this Act. the Access Board is authorized to appoint as many hearing examiners as are necessary for proceedings required to be conducted under this section. The provisions applicable to hearing examiners appointed under section 3105 of title 5, United States Code, shall apply to hearing examiners appointed under this subsection.

(2) The Executive Director shall exercise general supervision over all personnel employed by the Access Board (other than hearing examiners and their assistants). The Executive Director shall have final authority on behalf of the Access Board, with respect to the investigation of alleged noncompliance and in the issuance of formal complaints before the Access Board, and shall have such other duties as the Access Board may prescribe.

(3) For the purpose of this section, an order of compliance issued by a hearing examiner shall be deemed to be an order of the Access Board and shall be the final order for the purpose of judicial review.

(f)(1)(A) In carrying out the technical assistance responsibilities of the Access Board under this section, the Board may enter into an interagency agreement with another Federal department or agency.

(B) Any funds appropriated to such a department or agency for the purpose of providing technical assistance may be transferred to the Access Board. Any funds appropriated to the Access Board for the purpose of providing such technical assistance may be transferred to such department or agency.

(C) The Access Board may arrange to carry out the technical assistance responsibilities of the Board under this section through such other departments and agencies for such periods as the Board determines to be appropriate.

(D) The Access Board shall establish a procedure to ensure separation of its compliance and technical assistance responsibilities under this section.

(2) The departments or agencies specified in subsection (a) of this section shall make available to the Access Board such technical, administrative, or other assistance as it may require to carry out its functions under this section, and the Access Board may appoint such other advisers, technical experts, and consultants as it deems necessary to assist it in carrying out its functions under this

section. Special advisory and technical experts and consultants appointed pursuant to this paragraph shall, while performing their functions under this section, be entitled to receive compensation at rates fixed by the Chairperson, but not exceeding the daily equivalent of the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382 of title 5, United States Code, including travel time, and while serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of such title 5 for persons in the Government service employed intermittently.

(g)(1) The Access Board shall, at the end of each fiscal year, report its activities during the preceding fiscal year to the Congress. Such report shall include an assessment of the extent of compliance with the Acts cited in subsection (b) of this section, along with a description and analysis of investigations made and actions taken by the Access Board, and the reports and recommendations described in paragraphs (8) and (9) of such subsection.

(2) The Access Board shall, at the same time that the Access Board transmits the report required under section 7(b) of the Act commonly known as the Architectural Barriers Act of 1968 (42 U.S.C. 4157(b)), transmit the report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

(h)(1) The Access Board may make grants to, or enter into contracts with, public or private organizations to carry out its duties under subsections (b) and (c).

(2)(A) The Access Board may accept, hold, administer, and utilize gifts, devises, and bequests of property, both real and personal, for the purpose of aiding and facilitating the functions of the Access Board under paragraphs (5) and (7) of subsection (b). Gifts and bequests of money and proceeds from sales of other property received as gifts, devises, or bequests shall be deposited in the Treasury and shall be disbursed upon the order of the Chairperson. Property accepted pursuant to this section, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gifts, devises, or bequests. For purposes of Federal income, estate, or gift taxes, property accepted under this section shall be considered as a gift, devise, or bequest to the United States.

(B) The Access Board shall publish regulations setting forth the criteria the Board will use in determining whether the acceptance of gifts, devises, and bequests of property, both real and personal, would reflect unfavorably upon the ability of the Board or any employee to carry out the responsibilities or official duties of the Board in a fair and objective manner, or would compromise the integrity of or the appearance of the integrity of a Government program or any official involved in that program.

(i) There are authorized to be appropriated for the purpose of carrying out the duties and functions of the Access Board under this section such sums as may be necessary for each of the fiscal years 1993 through 1997.

(29 U.S.C. 792)

EMPLOYMENT UNDER FEDERAL CONTRACTS

SEC. 503. (a) Any contract in excess of $10,000 entered into by any Federal department or agency for the procurement of personal property and nonpersonal services (including construction) for the United States shall contain a provision requiring that the party contracting with the United States shall take affirmative action to employ and advance in employment qualified individuals with disabilities. The provisions of this section shall apply to any subcontract in excess of $10,000 entered into by a prime contractor in carrying out any contract for the procurement of personal property and nonpersonal services (including construction) for the United States. The President shall implement the provisions of this section by promulgating regulations within ninety days after the date of enactment of this section.

(b) If any individual with a disability believes any contractor has failed or refused to comply with the provisions of a contract with the United States, relating to employment of individuals with disabilities, such individual may file a complaint with the Department of Labor. The Department shall promptly investigate such complaint and shall take such action thereon as the facts and circumstances warrant, consistent with the terms of such contract and the laws and regulations applicable thereto.

(c)(1) The requirements of this section may be waived, in whole or in part, by the President with respect to a particular contract or subcontract, in accordance with guidelines set forth in regulations which the President shall prescribe, when the President determines that special circumstances in the national interest so require and states in writing the reasons for such determination.

(2)(A) The Secretary of Labor may waive the requirements of the affirmative action clause required by regulations promulgated under subsection (a) with respect to any of a prime contractor's or subcontractor's facilities that are found to be in all respects separate and distinct from activities of the prime contractor or subcontractor related to the performance of the contract or subcontract, if the Secretary of Labor also finds that such a waiver will not interfere with or impede the effectuation of this Act.

(B) Such waivers shall be considered only upon the request of the contractor or subcontractor. The Secretary of Labor shall promulgate regulations that set forth the standards used for granting such a waiver.

(d) The standards used to determine whether this section has been violated in a complaint alleging nonaffirmative action employment discrimination under this section shall be the standards applied under title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) and the provisions of sections 501 through 504, and 510, of the Americans with Disabilities Act of 1990 (42 U.S.C. 12201–12204 and 12210), as such sections relate to employment.

(e) The Secretary shall develop procedures to ensure that administrative complaints filed under this section and under the Americans with Disabilities Act of 1990 are dealt with in a manner that avoids duplication of effort and prevents imposition of inconsistent or conflicting standards for the same requirements under this section and the Americans with Disabilities Act of 1990.

(29 U.S.C. 793)

NONDISCRIMINATION UNDER FEDERAL GRANTS AND PROGRAMS

SEC. 504. (a) No otherwise qualified individual with a disability in the United States, as defined in section 7(8), shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service. The head of each such agency shall promulgate such regulations as may be necessary to carry out the amendments to this section made by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Act of 1978. Copies of any proposed regulation shall be submitted to appropriate authorizing committees of the Congress, and such regulation may take effect no earlier than the thirtieth day after the date on which such regulation is so submitted to such committees.

(b) For the purposes of this section, the term "program or activity" means all of the operations of—

(1)(A) a department, agency, special purpose district, or other instrumentality of a State or of a local government; or

(B) the entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

(2)(A) a college, university, or other postsecondary institution, or a public system of higher education; or

(B) a local educational agency (as defined in section 1471(12) of the Elementary and Secondary Education Act of 1965), system of vocational education, or other school system;

(3)(A) an entire corporation, partnership, or other private organization, or an entire sole proprietorship—

(i) if assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(ii) which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(B) the entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(4) any other entity which is established by two or more of the entities described in paragraph (1), (2), or (3);

any part of which is extended Federal financial assistance.

(c) Small providers are not required by subsection (a) to make significant structural alterations to their existing facilities for the purpose of assuring program accessibility, if alternative means of providing the services are available. The terms used in this subsection shall be construed with reference to the regulations existing on the date of the enactment of this subsection.

(d) The standards used to determine whether this section has been violated in a complaint alleging employment discrimination under this section shall be the standards applied under title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) and the provisions of sections 501 through 504, and 510, of the Americans with Disabilities Act of 1990 (42 U.S.C. 12201–12204 and 12210), as such sections relate to employment.

(29 U.S.C. 794)

REMEDIES AND ATTORNEYS' FEES

SEC. 505.[1] (a)(1) The remedies, procedures, and rights set forth in section 717 of the Civil Rights Act of 1964 (42 US.C. 2000e–16), including the application of sections 706(f) through 706(k) (42 U.S.C. 2000e–5 (f) through (k)), shall be available, with respect to any complaint under section 501 of this Act, to any employee or applicant for employment aggrieved by the final disposition of such complaint, or by the failure to take final action on such complaint. In fashioning an equitable or affirmative action remedy under such section, a court may take into account the reasonableness of the cost of any necessary work place accommodation, and the availability of alternatives therefor or other appropriate relief in order to achieve an equitable and appropriate remedy.

(2) The remedies, procedures, and rights set forth in title VI of the Civil Rights Act of 1964 shall be available to any person aggrieved by any act or failure to act by any recipient of Federal assistance or Federal provider of such assistance under section 504 of this Act.

(b) In any action or proceeding to enforce or charge a violation of a provision of this title, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs.

(29 U.S.C. 794a)

SECRETARIAL RESPONSIBILITIES

SEC. 506. (a) The Secretary may provide directly or by contract with State vocational rehabilitation agencies or experts or consultants or groups thereof, technical assistance—

(1) to persons operating community rehabilitation programs; and

(2) with the concurrence of the Access Board established by section 502, to any public or nonprofit agency, institution, or organization;

for the purpose of assisting such persons or entities in removing architectural, transportation, or communication barriers. Any concurrence of the Access Board under this paragraph shall reflect its consideration of the cost studies carried out by States under section 502(c)(1).

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[1] Section 1003 of Public Law 99–506 (42 U.S.C. 2000 d–7) provides in part that a "State shall not be immune under the Eleventh Amendment of the Constitution of the United States from suit in Federal court for a violation of section 504 of the Rehabilitation Act of 1973". Such section 1003 further provides in part that in a suit for a violation of such section 504 "remedies (including remedies both at law and in equity) are available for such a violation to the same extent as such remedies are available for such a violation in the suit against any public or private entity other than a State".

(b) Any such experts or consultants, while serving pursuant to such contracts, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding the daily equivalent of the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382 of title 5, United States Code, including travel time, and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(c) The Secretary, with the concurrence of the Access Board and the President, may provide, directly or by contract, financial assistance to any public or nonprofit agency, institution, or organization for the purpose of removing architectural, transportation, and communication barriers. No assistance may be provided under this paragraph until a study demonstrating the need for such assistance has been conducted and submitted under section 502(h)(1) of this title.

(d) In order to carry out this section, there are authorized to be appropriated such sums as may be necessary.

(29 U.S.C. 794b)

SEC. 507. INTERAGENCY DISABILITY COORDINATING COUNCIL.

(a) ESTABLISHMENT.—There is hereby established an Interagency Disability Coordinating Council (hereafter in this section referred to as the "Council") composed of the Secretary of Education, the Secretary of Health and Human Services, the Secretary of Labor, the Secretary of Housing and Urban Development, the Secretary of Transportation, the Assistant Secretary of the Interior for Indian Affairs, the Attorney General, the Director of the Office of Personnel Management, the Chairperson of the Equal Employment Opportunity Commission, the Chairperson of the Architectural and Transportation Barriers Compliance Board, and such other officials as may be designated by the President.

(b) DUTIES.—The Council shall—

(1) have the responsibility for developing and implementing agreements, policies, and practices designed to maximize effort, promote efficiency, and eliminate conflict, competition, duplication, and inconsistencies among the operations, functions, and jurisdictions of the various departments, agencies, and branches of the Federal Government responsible for the implementation and enforcement of the provisions of this title, and the regulations prescribed thereunder;

(2) be responsible for developing and implementing agreements, policies, and practices designed to coordinate operations, functions, and jurisdictions of the various departments and agencies of the Federal Government responsible for promoting the full integration into society, independence, and productivity of individuals with disabilities; and

(3) carry out such studies and other activities, subject to the availability of resources, with advice from the National Council on Disability, in order to identify methods for over-

coming barriers to integration into society, independence, and productivity of individuals with disabilities.

(c) Report.—On or before July 1 of each year, the Interagency Disability Coordinating Council shall prepare and submit to the President and to the Congress a report of the activities of the Council designed to promote and meet the employment needs of individuals with disabilities, together with such recommendations for legislative and administrative changes as the Council concludes are desirable to further promote this section, along with any comments submitted by the National Council on Disability as to the effectiveness of such activities and recommendations in meeting the needs of individuals with disabilities. Nothing in this section shall impair any responsibilities assigned by any Executive order to any Federal department, agency, or instrumentality to act as a lead Federal agency with respect to any provisions of this title.

(29 U.S.C. 794c)

SEC. 508. ELECTRONIC AND INFORMATION TECHNOLOGY ACCESSIBILITY GUIDELINES.

(a) Guidelines.—The Secretary, through the Director of the National Institute on Disability and Rehabilitation Research, and the Administrator of the General Services Administration, in consultation with the electronics and information technology industry and the Interagency Council on Accessible Technology, shall develop and establish guidelines for Federal agencies for electronic and information technology accessibility designed to ensure, regardless of the type of medium, that individuals with disabilities can produce information and data, and have access to information and data, comparable to the information and data, and access, respectively, of individuals who are not individuals with disabilities. Such guidelines shall be revised, as necessary, to reflect technological advances or changes.

(b) Compliance.—Each Federal agency shall comply with the guidelines established under this section.

(29 U.S.C. 794d)

SEC. 509. PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS.

(a) Purpose.—The purpose of this section is to support a system in each State to protect the legal and human rights of individuals with disabilities who—

(1) are ineligible for client assistance programs under section 112; and

(2) are ineligible for protection and advocacy programs under part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.) and the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.).

(b) Appropriations Less Than $5,500,000.—

(1) Allotments.—For any fiscal year in which the amount appropriated to carry out this section is less than $5,500,000, the Commissioner may make grants from such amount to eligible systems within States to plan for, develop outreach strategies for, and carry out protection and advocacy programs authorized under this section for individuals with disabilities who

meet the requirements of paragraphs (1) and (2) of subsection (a).

(2) OTHER JURISDICTIONS.—For the purposes of this subsection, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau shall not be considered to be States.

(c) APPROPRIATIONS OF $5,500,000 OR MORE.—

(1) TECHNICAL ASSISTANCE.—For any fiscal year in which the amount appropriated to carry out this section equals or exceeds $5,500,000, the Commissioner shall set aside not less than 1.8 percent and not more than 2.2 percent of the amount to provide training and technical assistance to the systems established under this section.

(2) ALLOTMENTS.—For any such fiscal year, after the reservation required by paragraph (1) has been made, the Commissioner shall make allotments from the remainder of such amount in accordance with paragraph (3) to eligible systems within States to enable such systems to carry out protection and advocacy programs authorized under this section for such individuals.

(3) SYSTEMS WITHIN STATES.—

(A) POPULATION BASIS.—Except as provided in subparagraph (B), from such remainder for each such fiscal year, the Commissioner shall make an allotment to the eligible system within a State of an amount bearing the same ratio to such remainder as the population of the State bears to the population of all States.

(B) MINIMUMS.—Subject to the availability of appropriations to carry out this section, and except as provided in paragraph (4), the allotment to any system under subparagraph (A) shall be not less than $100,000 or one-third of one percent of the remainder for the fiscal year for which the allotment is made, whichever is greater, and the allotment to any system under this section for any fiscal year that is less than $100,000 or one-third of one percent of such remainder shall be increased to the greater of the two amounts.

(4) SYSTEMS WITHIN OTHER JURISDICTIONS.—

(A) IN GENERAL.—For the purposes of this subsection, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau shall not be considered to be States.

(B) ALLOTMENT.—The eligible system within a jurisdiction described in subparagraph (A) shall be allotted not less than $50,000 for the fiscal year for which the allotment is made, except that the Republic of Palau may receive such allotment under this section only until the Compact of Free Association with Palau takes effect.

(5) ADJUSTMENT FOR INFLATION.—

(A) STATES.—For purposes of determining the minimum amount of an allotment under paragraph (3)(B), the amount $100,000 shall, in the case of such allotments for fiscal year 1994 and subsequent fiscal years, be increased to the extent necessary to offset the effects of inflation occurring since October 1992, as measured by the percentage increase in the Consumer Price Index For All Urban Consumers (U.S. city average) during the period ending on April 1 of the fiscal year preceding the fiscal year for which the allotment is to be made.

(B) Certain territories.—For purposes of determining the minimum amount of an allotment under paragraph (4)(B), the amount $50,000 shall, in the case of such allotments for fiscal year 1994 and subsequent fiscal years, be increased to the extent necessary to offset the effects of inflation occurring since October 1992, as measured by the percentage increase in the Consumer Price Index For All Urban Consumers (U.S. city average) during the period ending on April 1 of the fiscal year preceding the fiscal year for which the allotment is to be made.

(d) Proportional Reduction.—Amounts necessary to provide allotments to systems within States in accordance with subsection (c)(3)(B) as increased under subsection (c)(5), or to provide allotments in accordance with subsection (c)(4)(B) as increased in accordance with subsection (c)(5), shall be derived by proportionately reducing the allotments of the remaining systems within States under subsection (c)(3), but with such adjustments as may be necessary to prevent the allotment of any such remaining systems within States from being thereby reduced to less than the greater of $100,000 or one-third of one percent of the sums made available for purposes of this section for the fiscal year for which the allotment is made, as increased in accordance with subsection (c)(5).

(e) Reallotment.—Whenever the Commissioner determines that any amount of an allotment to a system within a State for any fiscal year described in subsection (c)(1) will not be expended by such system in carrying out the provisions of this section, the Commissioner shall make such amount available for carrying out the provisions of this section to one or more of the systems that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a system for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the system (as determined under the preceding provisions of this section) for such year.

(f) Application.—In order to receive assistance under this section, an eligible system shall submit an application to the Commissioner, at such time, in such form and manner, and containing such information and assurances as the Commissioner determines necessary to meet the requirements of this section, including assurances that the eligible system will—

(1) have in effect a system to protect and advocate the rights of individuals with disabilities;

(2) have the same general authorities, including access to records and program income, as are set forth in part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.);

(3) have the authority to pursue legal, administrative, and other appropriate remedies or approaches to ensure the protection of, and advocacy for, the rights of such individuals within

the State who are ineligible for protection and advocacy programs under part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.) and the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.) or client assistance programs under section 112;

(4) provide information on and make referrals to programs and services addressing the needs of individuals with disabilities in the State;

(5) develop a statement of objectives and priorities on an annual basis, and provide to the public, including individuals with disabilities and, as appropriate, their representatives, an opportunity to comment on the objectives and priorities established by, and activities of, the system including—

(A) the objectives and priorities for the activities of the system for each year and the rationale for the establishment of such objectives and priorities; and

(B) the coordination of programs provided through the system under this section with the advocacy programs of the client assistance program under section 112, the State long-term care ombudsman program established under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.), the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.), and the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.);

(6) establish a grievance procedure for clients or prospective clients of the system to ensure that individuals with disabilities are afforded equal opportunity to access the services of the system; and

(7) provide assurances to the Commissioner that funds made available under this section will be used to supplement and not supplant the non-Federal funds that would otherwise be made available for the purpose for which Federal funds are provided.

(g) Carryover and Direct Payment.—

(1) Direct payment.—Notwithstanding any other provision of law, the Commissioner shall pay directly to any system that complies with the provisions of this section, the amount of the allotment of the State involved under this section, unless the State provides otherwise.

(2) Carryover.—Any amount paid to a State for a fiscal year that remains unobligated at the end of such year shall remain available to such State for obligation during the next fiscal year for the purposes for which such amount was paid.

(h) Limitation on Disclosure Requirements.—For purposes of any audit, report, or evaluation of the performance of the program established under this section, the Commissioner shall not require such a program to disclose the identity of, or any other personally identifiable information related to, any individual requesting assistance under such program.

(i) Eligibility for Assistance.—As used in this section, the term "eligible system" means a protection and advocacy system that is established under part C of the Developmental Disabilities

Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.) and that meets the requirements of subsection (f).

(j) ADMINISTRATIVE COST.—An eligible system may not use more than 5 percent of any allotment under subsection (c) for the cost of administration of the system required by this section.

(k) DELEGATION.—The Commissioner may delegate the administration of this program to the Commissioner of the Administration on Developmental Disabilities within the Department of Health and Human Services.

(l) REPORT.—The Commissioner shall annually prepare and submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report describing the types of services and activities being undertaken by programs funded under this section, the total number of individuals served under this section, the types of disabilities represented by such individuals, and the types of issues being addressed on behalf of such individuals.

(m) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1993, 1994, 1995, 1996, and 1997.

(29 U.S.C. 794e)

TITLE VI—EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES

SHORT TITLE

SEC. 601. This title may be cited as the "Employment Opportunities for Individuals With Disabilities Act".

(29 U.S.C. 701 note)

PART A—COMMUNITY SERVICE EMPLOYMENT PILOT PROGRAMS FOR INDIVIDUALS WITH DISABILITIES

ESTABLISHMENT OF PILOT PROGRAM

SEC. 611. (a) In order to promote useful opportunities in community service activities for individuals with disabilities who have poor employment prospects, the Secretary of Labor (hereinafter in this part referred to as the "Secretary") is authorized to establish a community service employment pilot program for individuals with disabilities. For purposes of this part, the term "eligible individuals" means persons who are individuals with disabilities (as defined in section 7(8)(A) of this Act) and who are referred to programs under this part by designated State units.

(b)(1) The Secretary may enter into agreements with public or private nonprofit agencies or organizations, including national organizations, agencies of a State government or a political subdivision of a State (having elected or duly appointed governing officials), or a combination of such political subdivisions, or tribal organizations in order to carry out the pilot program referred to in subsection (a). Such agreements may include provisions consistent with subsection (c) for the payment of the costs of projects developed by such organizations and agencies in cooperation with the

Secretary. No payment shall be made by the Secretary toward the cost of any such project unless the Secretary determines that:

(A) Such project will provide employment only for eligible individuals, except that if eligible individuals are not available to serve as technical, administrative, or supervisory personnel for a project then such personnel may be recruited from among other individuals.

(B) Such project will provide employment for eligible individuals in the community in which such individuals reside, or in nearby communities.

(C) Such project will employ eligible individuals in services related to publicly owned and operated facilities and projects, or projects sponsored by organizations, other than political parties, exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954, except for projects involving the construction, operation, or maintenance of any facility used or to be used as a place for sectarian religious instruction or worship.

(D) Such project will contribute to the general welfare of the community in which eligible individuals are employed under such project.

(E) Such project (i) will result in an increase in employment opportunities over those opportunities which would otherwise be available, (ii) will not result in any displacement of currently employed workers (including partial displacement, such as a reduction in the hours of nonovertime work or wages or employment benefits), and (iii) will not impair existing contracts or result in the substitution of Federal funds for other funds in connection with work that would otherwise be performed.

(F) Such project will not employ any eligible individual to perform work which is the same or substantially the same as that performed by any other person who is on layoff from employment with the agency or organization sponsoring such project.

(G) Such project will utilize methods of recruitment and selection (including the listing of job vacancies with the State agency units designated under section 101(a)(2)(A) to administer vocational rehabilitation services under this Act) which will assure that the maximum number of eligible individuals will have an opportunity to participate in the project.

(H) Such project will provide for (i) such training as may be necessary to make the most effective use of the skills and talents of individuals who are participating in the project, and (ii) during the period of such training, a reasonable subsistence allowance for such individuals and the payment of any other reasonable expenses related to such training.

(I) Such project will provide safe and healthy working conditions for any eligible individual employed under such project and will pay any such individual at a rate of pay not lower than the rate of pay described in paragraph (2).

(J) Such project will be established or administered with the advice of (i) persons competent in the field of service in which employment is being provided, and (ii) persons who are knowledgeable with regard to the needs of individuals with disabilities.

(K) Such project will pay any reasonable costs for work-related expenses, transportation, and personal assistance services incurred by eligible individuals employed under such project in accordance with regulations prescribed by the Secretary.

(L) Such project will provide appropriate placement services for employees under the project to assist them in locating unsubsidized employment when the Federal assistance for the project terminates.

(2) The rate of pay referred to in subparagraph (I) of paragraph (1) is the highest of the following:

(A) the[1] prevailing rate of pay for persons employed in similar occupations by the same employer.

(B) The minimum wage which would be applicable to the employee under the Fair Labor Standards Act of 1938 if such employee were not exempt from such Act under section 13 thereof.

(C) The State or local minimum wage for the most nearly comparable covered employment.

The Department of Labor shall not issue any certificate of exemption under section 14(c) of the Fair Labor Standards Act of 1938 with respect to any person employed in a project under this section.

(c)(1) The Secretary may pay not to exceed 90 percent of the cost of any project which is the subject of an agreement entered into under subsection (b). Notwithstanding the preceding sentence, the Secretary may pay all of the costs of any such project which is (A) an emergency or disaster project, or (B) a project located in an economically depressed area, as determined by the Secretary in consultation with the Secretary of Commerce and the Director of the Community Services Administration.

(2) The non-Federal share of any project under this part may be in cash or in kind. In determining the amount of the non-Federal share, the Secretary may attribute fair market value to services and facilities contributed from non-Federal sources.

(d) Payments under this part may be made in advance or by way of reimbursement, and in such installments as the Secretary may determine.

(29 U.S.C. 795)

ADMINISTRATION

SEC. 612. (a) In order to effectively carry out the provisions of this part, the Secretary shall, through the Commissioner of the Rehalibitation[2] Services Administration, consult with any designated State unit with regard to—

(1) the localities in which community service projects of the type authorized by this part are most needed;

(2) the employment situations and types of skills possessed by eligible individuals in such localities; and

(3) potential projects suitable for funding in such localities.

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[1] So in law. Probably should be capitalized.

[2] So in law. Probably should be "Rehabilitation".

(b) The Secretary shall coordinate the pilot program established under this part with the Job Training Partnership Act and the Community Services Block Grant Act.

(c) In carrying out this part, the Secretary may, with the consent of any other Federal, State, or local agency, use the services, equipment, personnel, and facilities of such agency with or without providing such agency with reimbursement and may use the services, equipment, and facilities of any other public or private entity on a similar basis.

(d) Within one hundred and eighty days after the effective date of this part, the Secretary shall issue and publish in the Federal Register such regulations as may be necessary to carry out this part.

(e) The Secretary shall not delegate any function of the Secretary under this part to any other department or agency of the Federal Government.

(29 U.S.C. 795a)

PARTICIPANTS NOT FEDERAL EMPLOYEES

SEC. 613. (a) Eligible individuals who are employed in any project funded under this part shall not be considered to be Federal employees as a result of such employment and shall not be subject to the provisions of part III of title 5, United States Code.

(b) No contract shall be entered into under this part with a contractor who is, or whose employees are, under State law, exempted from operation of any State workmen's compensation law generally applicable to employees, unless the contractor shall undertake to provide for persons to be employed under such contract, through insurance by a recognized carrier or by self-insurance authorized by State law, workmen's compensation coverage equal to that provided by law for covered employment.

(c) No part of the wages, allowances, or reimbursement for transportation and personal assistance services costs made available to an eligible individual employed in any project funded under this part shall be treated as income or benefits for the purpose of any other program or provision of State or Federal law, unless the Secretary makes a case by case determination that disallowance of such income or benefits is inequitable or does not carry out the purposes of this title.

(29 U.S.C. 795b)

INTERAGENCY COOPERATION

SEC. 614. (a) The Secretary shall consult with, and obtain the written views of, the Commissioner of the Rehabilitation Services Administration before establishing rules or general policy in the administration of this part.

(b) The Secretary shall consult and cooperate with the Director of the Community Services Administration, the Secretary of Health and Human Services, and the heads of other Federal agencies carrying out related programs, in order to achieve maximum coordination between such programs and the program established under this part. Each Federal agency shall cooperate with the Secretary in disseminating information relating to the availability of assistance under this part and in identifying individuals eligible for employment in projects assisted under this part.

(29 U.S.C. 795c)

EQUITABLE DISTRIBUTION OF ASSISTANCE

SEC. 615. (a)(1) Preference in awarding grants or contracts under this part shall be given to organizations of proven ability in providing employment services to individuals with disabilities under this program and similar programs. The Secretary, in awarding grants and contracts under this section, shall, to the extent feasible, assure an equitable distribution of activities under such grants and contracts among the States, taking into account the needs of underserved States and the needs of Indian tribes.

(2) The Secretary shall allot for projects within each State the sums appropriated for any fiscal year under section 617 so that each State will receive an amount which bears the same ratio to such sums as the population of the State bears to the population of all the States.

(b) The amount allotted for projects within any State under subsection (a) for any fiscal year which the Secretary determines will not be required for such year shall be reallotted, from time to time and on such dates during such year as the Secretary may fix, to projects within other States in proportion to the original allotments to projects within such States under subsection (a) for such year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates that projects within such State need and will be able to use for such year. The total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) for such year.

(c) The amount apportioned for projects within each State under subsection (a) shall be apportioned among areas within each such State in an equitable manner, taking into consideration (1) the proportion which eligible individuals in each such area bears to the total number of such individuals, respectively, in that State, and (2) the relative distribution of such individuals residing in rural and urban areas within the State (including individuals residing on Indian reservations).

(29 U.S.C. 795d)

DEFINITIONS

SEC. 616. For purposes of this part—

(1) the term "community service" means social, health, welfare, and educational services, legal and other counseling services and assistance, including tax counseling and assistance and financial counseling, and library, recreational, and other similar services; conservation, maintenance, or restoration of natural resources; community betterment or beautification; antipollution and environmental quality efforts; economic development; and such other services essential and nec-

essary to the community as the Secretary, by regulation, may prescribe; and

(2) the term "pilot program" means the community service employment program for individuals with disabilities established under this part.

(29 U.S.C. 795e)

AUTHORIZATION OF APPROPRIATIONS

SEC. 617. There are authorized to be appropriated to carry out the provisions of this part such sums as may be necessary for each of the fiscal years 1993 through 1997.

(29 U.S.C. 795f)

PART B—PROJECTS WITH INDUSTRY

PROJECTS WITH INDUSTRY

SEC. 621.(a)(1) The purpose of this part is to create and expand job and career opportunities for individuals with disabilities in the competitive labor market by engaging the talent and leadership of private industry as partners in the rehabilitation process, to identify competitive job and career opportunities and the skills needed to perform such jobs, to create practical job and career readiness and training programs, and to provide job placements and career advancement.

(2) The Commissioner, in consultation with the Secretaries of Labor and Commerce and with designated State units, may award grants to individual employers, community rehabilitation program providers, labor unions, trade associations, Indian tribes, tribal organizations, designated State units, and other entities to establish jointly financed Projects With Industry to create and expand job and career opportunities for individuals with disabilities, which projects shall—

(A) provide for the establishment of business advisory councils, which shall—

(i) be comprised of—

(I) representatives of private industry, business concerns, and organized labor; and

(II) individuals with disabilities and their representatives;

(ii) identify job and career availability within the community;

(iii) identify the skills necessary to perform the jobs and careers identified; and

(iv) prescribe training programs designed to develop appropriate job and career skills for individuals with disabilities;

(B) provide individuals with disabilities with training in realistic work settings in order to prepare the individuals for employment and career advancement in the competitive market;

(C) provide job placement and career advancement services;

(D) to the extent appropriate, provide for—

(i) the development and modification of jobs and careers to accommodate the special needs of such individuals;

(ii) the distribution of rehabilitation technology to such individuals; and

(iii) the modification of any facilities or equipment of the employer that are used primarily by individuals with disabilities; and

(E) provide individuals with disabilities with such support services as may be required in order to maintain the employment and career advancement for which the individuals have received training under this part.

(3) An individual shall be eligible for services described in paragraph (2) if the appropriate designated State unit determines the individual to be an individual with a disability under section 7(8)(A) or an individual with a severe disability under section 7(15)(A). In making such a determination, the unit shall rely on the determination made by the recipient of the grant under which the services are provided, to the extent appropriate and available and consistent with the requirements under this Act. If a designated State unit does not notify a recipient of a grant within 60 days that the determination of the recipient is inappropriate, the recipient of the grant may consider the individual to be eligible.

(4) The Commissioner shall enter into an agreement with the grant recipient regarding the establishment of the project. Any agreement shall be jointly developed by the Commissioner, the grant recipient, and, to the extent practicable, the appropriate designated State unit and the individuals with disabilities (or their representatives) involved. Such agreements shall specify the terms of training and employment under the project, provide for the payment by the Commissioner of part of the costs of the project (in accordance with subsection (c)), and contain the items required under subsection (b) and such other provisions as the parties to the agreement consider to be appropriate.

(5) Any agreement shall include a description of a plan to annually conduct a review and evaluation of the operation of the project in accordance with standards developed by the Commissioner under subsection (d), and, in conducting the review and evaluation, to collect information on—

(A) the numbers and types of individuals with disabilities served;

(B) the types of services provided;

(C) the sources of funding;

(D) the percentage of resources committed to each type of service provided;

(E) the extent to which the employment status and earning power of individuals with disabilities changed following services;

(F) the extent of capacity building activities, including collaboration with business and industry and other organizations, agencies, and institutions;

(G) a comparison, if appropriate, of activities in prior years with activities in the most recent year; and

(H) the number of project participants who were terminated from project placements and the duration of such placements.

(6) The Commissioner may include, as part of agreements with grant recipients, authority for such grant recipients to provide technical assistance to—

(A) assist employers in hiring individuals with disabilities; or

(B) improve or develop relationships between—

(i) grant recipients or prospective grant recipients; and

(ii) employers or organized labor; or

(C) assist employers in understanding and meeting the requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) as the Act relates to employment of individuals with disabilities.

(b) No payment shall be made by the Commissioner under any agreement with a grant recipient entered into under subsection (a) unless such agreement—

(1) provides an assurance that individuals with disabilities placed under such agreement shall receive at least the applicable minimum wage;

(2) provides an assurance that any individual with a disability placed under this part shall be afforded terms and benefits of employment equal to terms and benefits that are afforded to the similarly situated co-workers of the individual, and that such individuals with disabilities shall not be segregated from their co-workers; and

(3) provides an assurance that an annual evaluation report containing information specified under subsection (a)(5) shall be submitted as determined to be appropriate by the Commissioner.

(c) Payments under this section with respect to any project may not exceed 80 per centum of the costs of the project.

(d)(1) The Commissioner shall develop standards for the evaluation described in subsection (a)(5) and shall review and revise the evaluation standards as necessary, subject to paragraphs (2) and (3).

(2) In revising the standards for evaluation to be used by the grant recipients, the Commissioner shall obtain and consider recommendations for such standards from State vocational rehabilitation agencies, current and former grant recipients, professional organizations representing business and industry, organizations representing individuals with disabilities, individuals served by grant recipients, organizations representing community rehabilitation program providers, and labor organizations.

(3) No standards may be established under this subsection unless the standards are approved by the National Council on Disability. The Council shall approve the standards within ninety days after receiving the standards. If the Secretary of Education has not received notification of approval or disapproval from the Council within ninety days, the standards shall be deemed approved. A Council decision on such standards shall occur at a regularly scheduled meeting of the Council, and shall be the result of a simple majority of those present at the meeting.

(e)(1)(A) A grant may be awarded under this section for a period of up to 5 years and such grant may be renewed.

(B) Grants under this section shall be awarded on a competitive basis. To be eligible to receive such a grant, a prospective grant recipient shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

(2) The Commissioner shall to the extent practicable ensure an equitable distribution of payments made under this section among the States. To the extent funds are available, the Commissioner shall award grants under this section to new projects that will serve individuals with disabilities in States, portions of States, Indian tribes, or tribal organizations, that are currently unserved or underserved by projects.

(f)(1) The Commissioner shall, as necessary, develop and publish in the Federal Register in final form indicators of what constitutes minimum compliance consistent with the evaluation standards under subsection (d)(1).

(2) Each grant recipient shall report to the Commissioner at the end of each project year the extent to which the grant recipient is in compliance with the evaluation standards.

(3)(A) The Commissioner shall annually conduct on-site compliance reviews of at least 15 percent of grant recipients. The Commissioner shall select grant recipients for review on a random basis.

(B) The Commissioner shall use the indicators in determining compliance with the evaluation standards.

(C) The Commissioner shall ensure that at least one member of a team conducting such a review shall be an individual who—

(i) is not an employee of the Federal Government; and

(ii) has experience or expertise in conducting projects.

(D) The Commissioner shall ensure that—

(i) a representative of the appropriate designated State unit shall participate in the review; and

(ii) no person shall participate in the review of a grant recipient if—

(I) the grant recipient provides any direct financial benefit to the reviewer; or

(II) participation in the review would give the appearance of a conflict of interest.

(4) In making a determination concerning any subsequent grant under this section, the Commissioner shall consider the past performance of the applicant, if applicable. The Commissioner shall use compliance indicators developed under this subsection that are consistent with program evaluation standards developed under subsection (d) to assess minimum project performance for purposes of making continuation awards in the third, fourth, and fifth years.

(5) Each fiscal year the Commissioner shall include in the annual report to Congress required by section 13 an analysis of the extent to which grant recipients have complied with the evaluation standards. The Commissioner may identify individual grant recipients in the analysis. In addition, the Commissioner shall report the results of on-site compliance reviews, identifying individual grant recipients.

(g) The Commissioner may provide, directly or by way of grant, contract, or cooperative agreement, technical assistance to—

(1) entities conducting projects for the purpose of assisting such entities in—

(A) the improvement of or the development of relationships with private industry or labor; or

(B) the improvement of relationships with State vocational rehabilitation agencies; and

(2) entities planning the development of new projects.

(h) As used in this section:

(1) The term "agreement" means an agreement described in subsection (a)(4).

(2) The term "project" means a Project With Industry established under subsection (a)(2).

(3) The term "grant recipient" means a recipient of a grant under subsection (a)(2).

(29 U.S.C. 795g)

AUTHORIZATION OF APPROPRIATIONS

SEC. 622. There are authorized to be appropriated to carry out the provisions of this part, such sums as may be necessary for each of fiscal years 1993 through 1997.

(29 U.S.C. 795i)

PART C—SUPPORTED EMPLOYMENT SERVICES FOR INDIVIDUALS WITH SEVERE DISABILITIES

SEC. 631. PURPOSE.

It is the purpose of this part to authorize allotments, in addition to grants for vocational rehabilitation services under title I, to assist States in developing collaborative programs with appropriate entities to provide supported employment services for individuals with the most severe disabilities who require supported employment services to enter or retain competitive employment.

(29 U.S.C. 795j)

SEC. 632. ALLOTMENTS.

(a) IN GENERAL.—

(1) STATES.—The Secretary shall allot the sums appropriated for each fiscal year to carry out this part among the States on the basis of relative population of each State, except that—

(A) no State shall receive less than $250,000, or one-third of one percent of the sums appropriated for the fiscal year for which the allotment is made, whichever is greater; and

(B) if the sums appropriated to carry out this part for the fiscal year exceed by $1,000,000 or more the sums appropriated to carry out this part in fiscal year 1992, no State shall receive less than $300,000, or one-third of one percent of the sums appropriated for the fiscal year for which the allotment is made, whichever is greater.

(2) CERTAIN TERRITORIES.—

(A) IN GENERAL.—For the purposes of this subsection, Guam, American Samoa, the United States Virgin Islands, the Republic of Palau, and the Commonwealth of the Northern Mariana Islands shall not be considered to be States.

(B) ALLOTMENT.—Each jurisdiction described in subparagraph (A) shall be allotted not less than one-eighth of one percent of the amounts appropriated for the fiscal year for which the allotment is made, except that the Republic of Palau may receive such allotment under this section only until the Compact of Free Association with Palau takes effect.

(b) REALLOTMENT.—Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be expended by such State for carrying out the provisions of this part, the Commissioner shall make such amount available for carrying out the provisions of this part to one or more of the States that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the State (as determined under the preceding provisions of this section) for such year.

(29 U.S.C. 795k)

SEC. 633. AVAILABILITY OF SERVICES.

Funds provided under this part may be used to provide supported employment services to individuals who are eligible under this part. Funds provided under this part, title I, or subsection (c) or (f) of section 311 may not be used to provide extended services to individuals who are eligible under this part or title I.

(29 U.S.C. 795l)

SEC. 634. ELIGIBILITY.

An individual shall be eligible under this part to receive supported employment services authorized under this Act if—

(1) the individual is eligible for vocational rehabilitation services;

(2) the individual is determined to be an individual with the most severe disabilities; and

(3) a comprehensive assessment of rehabilitation needs of the individual provided under section 102(b)(1)(A), including an evaluation of rehabilitation, career, and job needs, identifies supported employment as the appropriate rehabilitation objective for the individual.

(29 U.S.C. 795m)

SEC. 635. STATE PLAN.

(a) STATE PLAN SUPPLEMENTS.—To be eligible for an allotment under this part, a State shall submit to the Commissioner, as part of the State plan under section 101, a State plan supplement for providing supported employment services authorized under this Act to individuals who are eligible under this Act to receive the services. Each State shall make such annual revisions in the plan supplement as may be necessary.

(b) CONTENTS.—Each such plan supplement shall—

(1) designate each agency that the State designated under section 101(a)(1) as the agency to administer the program assisted under this part;

(2) summarize the results of the comprehensive, statewide assessment conducted under section 101(a)(5), with respect to the rehabilitation and career needs of individuals with severe disabilities and the need for supported employment services, including needs related to coordination and use of information within the State relating to section 618(b)(1)(C) of the Individuals with Disabilities Education Act (20 U.S.C. 1418(b)(1)(C));

(3) describe the quality, scope, and extent of supported employment services authorized under this Act to be provided to individuals who are eligible under this Act to receive the services and specify the goals and plans of the State with respect to the distribution of funds received under section 632;

(4) demonstrate evidence of the efforts of the designated State agency to identify and make arrangements (including entering into cooperative agreements) with other State agencies and other appropriate entities to assist in the provision of supported employment services;

(5) demonstrate evidence of the efforts of the designated State agency to identify and make arrangements (including entering into cooperative agreements) with other public or nonprofit agencies or organizations within the State, employers, natural supports, and other entities with respect to the provision of extended services;

(6) provide assurances that—

(A) funds made available under this part will only be used to provide supported employment services authorized under this Act to individuals who are eligible under this part to receive the services;

(B) that the comprehensive assessments of individuals with severe disabilities conducted under section 102(b)(1)(A) and funded under title I will include consideration of supported employment as an appropriate rehabilitation objective;

(C) an individualized written rehabilitation program, as required by section 102, will be developed and updated using funds under title I in order to—

(i) specify the supported employment services to be provided;

(ii) specify the expected extended services needed; and

(iii) identify the source of extended services, which may include natural supports, or to the extent that it is not possible to identify the source of extended services at the time the individualized written rehabilitation program is developed, a statement describing the basis for concluding that there is a reasonable expectation that such sources will become available;

(D) the State will use funds provided under this part only to supplement, and not supplant, the funds provided under title I, in providing supported employment services specified in the individualized written rehabilitation program;

(E) services provided under an individualized written rehabilitation program will be coordinated with services provided under other individualized plans established under other Federal or State programs;

(F) to the extent jobs skills training is provided, the training will be provided on-site; and

(G) supported employment services will include placement in an integrated setting for the maximum number of hours possible based on the unique strengths, resources, interests, concerns, abilities, and capabilities of individuals with the most severe disabilities;

(7) provide assurances that the State agencies designated under paragraph (1) will expend not more than 5 percent of the allotment of the State under this part for administrative costs of carrying out this part; and

(8) contain such other information and be submitted in such manner as the Commissioner may require.

(29 U.S.C. 795n)

SEC. 636. RESTRICTION.

Each State agency designated under section 635(b)(1) shall collect the client information required by section 13 separately for supported employment clients under this part and for supported employment clients under title I.

(29 U.S.C. 795o)

SEC. 637. SAVINGS PROVISION.

(a) SUPPORTED EMPLOYMENT SERVICES.—Nothing in this Act shall be construed to prohibit a State from providing supported employment services in accordance with the State plan submitted under section 101 by using funds made available through a State allotment under section 110.

(b) POSTEMPLOYMENT SERVICES.—Nothing in this part shall be construed to prohibit a State from providing discrete postemployment services in accordance with the State plan submitted under section 101 by using funds made available through a State allotment under section 110 to an individual who is eligible under this part.

(29 U.S.C. 795p)

SEC. 638. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this part such sums as may be necessary for each of fiscal years 1993 through 1997.

(29 U.S.C. 795q)

PART D—BUSINESS OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES.

BUSINESS OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES

SEC. 641. (a) The Commissioner, in consultation with the Secretary of Labor and the Secretary of Commerce, may make grants to, or enter into contracts with, individuals with disabilities to enable them to establish or operate commercial or other enterprises to develop or market their products or services. Within ninety days after the effective date of this section, the Commissioner shall promulgate regulations to carry out this section, including regulations specifying (1) the maximum amount of money which may be provided under this section to any participant, and (2) procedures for certification, by designated State units, of individuals eligible to participate in any program under this section.

(b) There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the 1993 through 1997 fiscal years.

(29 U.S.C. 795r)

TITLE VII—INDEPENDENT LIVING SERVICES AND CENTERS FOR INDEPENDENT LIVING

CHAPTER 1—INDIVIDUALS WITH SEVERE DISABILITIES

PART A—GENERAL PROVISIONS

SEC. 701. PURPOSE.

The purpose of this chapter is to promote a philosophy of independent living, including a philosophy of consumer control, peer support, self-help, self-determination, equal access, and individual and system advocacy, in order to maximize the leadership, empowerment, independence, and productivity of individuals with disabilities, and the integration and full inclusion of individuals with disabilities into the mainstream of American society, by—

(1) providing financial assistance to States for providing, expanding, and improving the provision of independent living services;

(2) providing financial assistance to develop and support statewide networks of centers for independent living; and

(3) providing financial assistance to States for improving working relationships among State independent living rehabilitation service programs, centers for independent living, Statewide Independent Living Councils established under section 705, State vocational rehabilitation programs receiving assistance under title I, State programs of supported employment services receiving assistance under part C of title VI, client assistance programs receiving assistance under section 112, programs funded under other titles of this Act, programs funded under other Federal programs, and programs funded through non-Federal sources.

(29 U.S.C. 796)

SEC. 702. DEFINITIONS.

As used in this chapter:

(1) CENTER FOR INDEPENDENT LIVING.—The term "center for independent living" means a consumer-controlled, commu-

nity-based, cross-disability, nonresidential private nonprofit agency that—

(A) is designed and operated within a local community by individuals with disabilities; and

(B) provides an array of independent living services.

(2) CONSUMER CONTROL.—The term "consumer control" means, with respect to an entity, that the entity vests power and authority in individuals with disabilities.

(29 U.S.C. 796a)

SEC. 703. ELIGIBILITY FOR RECEIPT OF SERVICES.

Services may be provided under this chapter to any individual with a severe disability, as defined in section 7(15)(B).

(29 U.S.C. 796b)

SEC. 704. STATE PLAN.

(a) IN GENERAL.—

(1) REQUIREMENT.—To be eligible to receive financial assistance under this chapter, a State shall submit to the Commissioner, and obtain approval of, a State plan containing such provisions as the Commissioner may require, including, at a minimum, the provisions required in this section.

(2) JOINT DEVELOPMENT.—The plan under paragraph (1) shall be jointly developed and signed by—

(A) the director of the designated State unit; and

(B) the chairperson of the Statewide Independent Living Council, acting on behalf of and at the direction of the Council.

(3) PERIODIC REVIEW AND REVISION.—The plan shall provide for the review and revision of the plan, not less than once every 3 years, to ensure the existence of appropriate planning, financial support and coordination, and other assistance to appropriately address, on a statewide and comprehensive basis, needs in the State for—

(A) the provision of State independent living services;

(B) the development and support of a statewide network of centers for independent living; and

(C) working relationships between—

(i) programs providing independent living services and independent living centers; and

(ii) the vocational rehabilitation program established under title I, and other programs providing services for individuals with disabilities.

(4) DATE OF SUBMISSION.—The State shall submit the plan to the Commissioner 90 days before the completion date of the preceding plan. If a State fails to submit such a plan that complies with the requirements of this section, the Commissioner may withhold financial assistance under this chapter until such time as the State submits such a plan.

(b) STATEWIDE INDEPENDENT LIVING COUNCIL.—The plan shall provide for the establishment of a Statewide Independent Living Council in accordance with section 705.

(c) DESIGNATION OF STATE UNIT.—The plan shall designate the designated State unit of such State as the agency that, on behalf of the State, shall—

(1) receive, account for, and disburse funds received by the State under this chapter based on the plan;

(2) provide administrative support services for programs under parts B and C;

(3) keep such records and afford such access to such records as the Commissioner finds to be necessary with respect to the programs; and

(4) submit such additional information or provide such assurances as the Commissioner may require with respect to the programs.

(d) Objectives.—The plan shall—

(1) specify the objectives to be achieved under the plan and establish timelines for the achievement of the objectives; and

(2) explain how such objectives are consistent with and further the purpose of this chapter.

(e) Independent Living Services.—The plan shall provide that the State will provide independent living services under this chapter to individuals with severe disabilities, and will provide the services to such an individual in accordance with an independent living plan mutually agreed upon by an appropriate staff member of the service provider and the individual, unless the individual signs a waiver stating that such a plan is unnecessary.

(f) Scope and Arrangements.—The plan shall describe the extent and scope of independent living services to be provided under this chapter to meet such objectives. If the State makes arrangements, by grant or contract, for providing such services, such arrangements shall be described in the plan.

(g) Network.—The plan shall set forth a design for the establishment of a statewide network of centers for independent living that comply with the standards and assurances set forth in section 725.

(h) Centers.—In States in which State funding for centers for independent living equals or exceeds the amount of funds allotted to the State under part C, as provided in section 723, the plan shall include policies, practices, and procedures governing the awarding of grants to centers for independent living and oversight of such centers consistent with section 723.

(i) Cooperation, Coordination, and Working Relationships Among Various Entities.—The plan shall set forth the steps that will be taken to maximize the cooperation, coordination, and working relationships among—

(1) the independent living rehabilitation service program, the Statewide Independent Living Council, and centers for independent living; and

(2) the designated State unit, other State agencies represented on such Council, other councils that address the needs of specific disability populations and issues, and other public and private entities determined to be appropriate by the Council.

(j) Coordination of Services.—The plan shall describe how services funded under this chapter will be coordinated with, and complement, other services, in order to avoid unnecessary duplication with other Federal, State, and local programs.

(k) COORDINATION BETWEEN FEDERAL AND STATE SOURCES.—The plan shall describe efforts to coordinate Federal and State funding for centers for independent living and independent living services.

(l) OUTREACH.—With respect to services and centers funded under this chapter, the plan shall set forth steps to be taken regarding outreach to populations that are unserved or underserved by programs under this title, including minority groups and urban and rural populations.

(m) REQUIREMENTS.—The plan shall provide satisfactory assurances that all recipients of financial assistance under this chapter will—

(1) notify all individuals seeking or receiving services under this chapter about the availability of the client assistance program under section 112, the purposes of the services provided under such program, and how to contact such program;

(2) take affirmative action to employ and advance in employment qualified individuals with disabilities on the same terms and conditions required with respect to the employment of such individuals under the provisions of section 503;

(3) adopt such fiscal control and fund accounting procedures as may be necessary to ensure the proper disbursement of and accounting for funds paid to the State under this chapter;

(4)(A) maintain records that fully disclose—

(i) the amount and disposition by such recipient of the proceeds of such financial assistance;

(ii) the total cost of the project or undertaking in connection with which such financial assistance is given or used; and

(iii) the amount of that portion of the cost of the project or undertaking supplied by other sources;

(B) maintain such other records as the Commissioner determines to be appropriate to facilitate an effective audit;

(C) afford such access to records maintained under subparagraphs (A) and (B) as the Commissioner determines to be appropriate; and

(D) submit such reports with respect to such records as the Commissioner determines to be appropriate;

(5) provide access to the Commissioner and the Comptroller General or any of their duly authorized representatives, for the purpose of conducting audits and examinations, of any books, documents, papers, and records of the recipients that are pertinent to the financial assistance received under this chapter; and

(6) provide for public hearings regarding the contents of the plan during both the formulation and review of the plan.

(n) EVALUATION.—The plan shall establish a method for the periodic evaluation of the effectiveness of the plan in meeting the objectives established in subsection (d), including evaluation of satisfaction by individuals with disabilities.

(29 U.S.C. 795c)

SEC. 705. STATEWIDE INDEPENDENT LIVING COUNCIL.

(a) ESTABLISHMENT.—To be eligible to receive financial assistance under this chapter, each State shall establish a Statewide Independent Living Council (referred to in this section as the "Council"). The Council shall not be established as an entity within another State agency.

(b) COMPOSITION AND APPOINTMENT.—

(1) APPOINTMENT.—Members of the Council shall be appointed by the Governor or the appropriate entity within the State responsible for making appointments, within 90 days after the date of enactment of the Rehabilitation Act Amendments of 1992. The appointing authority shall select members after soliciting recommendations from representatives of organizations representing a broad range of individuals with disabilities and organizations interested in individuals with disabilities.

(2) COMPOSITION.—The Council shall include—

(A) at least one director of a center for independent living chosen by the directors of centers for independent living within the State; and

(B) as ex officio, nonvoting members—

(i) a representative from the designated State unit; and

(ii) representatives from other State agencies that provide services for individuals with disabilities.

(3) ADDITIONAL MEMBERS.—The Council may include—

(A) other representatives from centers for independent living;

(B) parents and guardians of individuals with disabilities;

(C) advocates of and for individuals with disabilities;

(D) representatives from private businesses;

(E) representatives from organizations that provide services for individuals with disabilities; and

(F) other appropriate individuals.

(4) QUALIFICATIONS.—The Council shall be composed of members—

(A) who provide statewide representation;

(B) who represent a broad range of individuals with disabilities;

(C) who are knowledgeable about centers for independent living and independent living services; and

(D) a majority of whom are persons who are—

(i) individuals with disabilities described in section 7(8)(B); and

(ii) not employed by any State agency or center for independent living.

(5) CHAIRPERSON.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Council shall select a chairperson from among the membership of the Council.

(B) DESIGNATION BY GOVERNOR.—In States in which the Governor does not have veto power pursuant to State law, the Governor shall designate a member of the Council to serve as the chairperson of the Council or shall require the Council to so designate such a member.

(6) TERMS OF APPOINTMENT.—

(A) LENGTH OF TERM.—Each member of the Council shall serve for a term of 3 years, except that—

(i) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

(ii) the terms of service of the members initially appointed shall be (as specified by the appointing authority) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

(B) NUMBER OF TERMS.—No member of the Council may serve more than two consecutive full terms.

(7) VACANCIES.—Any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

(c) DUTIES.—The Council shall—

(1) jointly develop and submit (in conjunction with the designated State agency) the State plan required in section 704;

(2) monitor, review, and evaluate the implementation of the State plan;

(3) coordinate activities with the State Rehabilitation Advisory Council established under section 105 and councils that address the needs of specific disability populations and issues under other Federal law;

(4) ensure that all regularly scheduled meetings of the Council are open to the public and sufficient advance notice is provided; and

(5) submit to the Commissioner such periodic reports as the Commissioner may reasonably request, and keep such records, and afford such access to such records, as the Commissioner finds necessary to verify such reports.

(d) HEARINGS AND FORUMS.—The Council is authorized to hold such hearings and forums as the Council may determine to be necessary to carry out the duties of the Council.

(e) PLAN.—

(1) IN GENERAL.—The Council shall prepare, in conjunction with the designated State unit, a plan for the provision of such resources, including such staff and personnel, as may be necessary to carry out the functions of the Council under this section, with funds made available under this chapter and part C of title I and from other public and private sources. The resource plan shall, to the maximum extent possible, rely on the use of resources in existence during the period of implementation of the plan.

(2) SUPERVISION AND EVALUATION.—Each Council shall, consistent with State law, supervise and evaluate such staff and other personnel as may be necessary to carry out the functions of the Council under this section.

(3) CONFLICT OF INTEREST.—While assisting the Council in carrying out its duties, staff and other personnel shall not be

assigned duties by the designated State agency or any other agency or office of the State, that would create a conflict of interest.

(f) COMPENSATION AND EXPENSES.—The Council may use such resources to reimburse members of the Council for reasonable and necessary expenses of attending Council meetings and performing Council duties (including child care and personal assistance services), and to pay compensation to a member of the Council, if such member is not employed or must forfeit wages from other employment, for each day the member is engaged in performing Council duties.

(g) USE OF EXISTING COUNCILS.—To the extent that a State has established a Council before September 30, 1992, that is comparable to the Council described in this section, such Council shall be considered to be in compliance with this section. Within 1 year after the date of enactment of the Rehabilitation Act Amendments of 1992, such State shall establish a Council that complies in full with this section.

(29 U.S.C. 796d)

SEC. 706. RESPONSIBILITIES OF THE COMMISSIONER.

(a) APPROVAL OF STATE PLANS.—

(1) IN GENERAL.—The Commissioner shall approve any State plan submitted under section 704 that the Commissioner determines meets the requirements of section 704, and shall disapprove any such plan that does not meet such requirements, as soon as practicable after receiving the plan. Prior to such disapproval, the Commissioner shall notify the State of the intention to disapprove the plan, and shall afford such State reasonable notice and opportunity for a hearing.

(2) PROCEDURES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the provisions of subsections (c) and (d) of section 107 shall apply to any State plan submitted to the Commissioner under section 704.

(B) APPLICATION.—For purposes of the application described in subparagraph (A), all references in such provisions—

(i) to the Secretary shall be deemed to be references to the Commissioner; and

(ii) to section 101 shall be deemed to be references to section 704.

(b) INDICATORS.—Not later than October 1, 1993, the Commissioner shall develop and publish in the Federal Register indicators of minimum compliance consistent with the standards set forth in section 725.

(c) ON-SITE COMPLIANCE REVIEWS.—

(1) REVIEWS.—The Commissioner shall annually conduct on-site compliance reviews of at least 15 percent of the centers for independent living that receive funds under part C and shall periodically conduct such a review of each such center. The Commissioner shall select such centers for review on a random basis.

(2) QUALIFICATIONS OF EMPLOYEES CONDUCTING REVIEWS.—The Commissioner shall—

(A) to the maximum extent practicable, carry out such a review by using employees of the Department who are knowledgeable about the provision of independent living services;

(B) ensure that the employee of the Department with responsibility for supervising such a review shall have such knowledge; and

(C) ensure that at least one member of a team conducting such a review shall be an individual who—

(i) is not a government employee; and

(ii) has experience in the operation of centers for independent living.

(d) REPORTS.—The Commissioner shall include, in the annual report required under section 13, information on the extent to which centers for independent living receiving funds under part C have complied with the standards and assurances set forth in section 725. The Commissioner may identify individual centers for independent living in the analysis. The Commissioner shall report the results of on-site compliance reviews, identifying individual centers for independent living and other recipients of assistance under this chapter.

(29 U.S.C. 796d–1)

PART B—INDEPENDENT LIVING SERVICES

SEC. 711. ALLOTMENTS.

(a) IN GENERAL.—

(1) STATES.—

(A) POPULATION BASIS.—Except as provided in subparagraphs (B) and (C), from sums appropriated for each fiscal year to carry out this part, the Commissioner shall make an allotment to each State whose State plan has been approved under section 706 of an amount bearing the same ratio to such sums as the population of the State bears to the population of all States.

(B) MAINTENANCE OF 1992 AMOUNTS.—Subject to the availability of appropriations to carry out this part, the amount of any allotment made under subparagraph (A) to a State for a fiscal year shall not be less than the amount of an allotment made to the State for fiscal year 1992 under part A of this title, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992.

(C) MINIMUMS.—Subject to the availability of appropriations to carry out this part, and except as provided in subparagraph (B), the allotment to any State under subparagraph (A) shall be not less than $275,000 or one-third of one percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than $275,000 or one-third of one percent of such sums shall be increased to the greater of the two amounts.

(2) CERTAIN TERRITORIES.—

(A) IN GENERAL.—For the purposes of this subsection, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau shall not be considered to be States.

(B) ALLOTMENT.—Each jurisdiction described in subparagraph (A) shall be allotted not less than one-eighth of one percent of the amounts made available for purposes of this part for the fiscal year for which the allotment is made, except that the Republic of Palau may receive such allotment under this section only until the Compact of Free Association with Palau takes effect.

(3) ADJUSTMENT FOR INFLATION.—For purposes of determining the minimum amount of an allotment under paragraph (1)(C), the amount $275,000 shall, in the case of such allotments for fiscal year 1994 and subsequent fiscal years, be increased to the extent necessary to offset the effects of inflation occurring since October 1992, as measured by the percentage increase in the Consumer Price Index For All Urban Consumers (U.S. city average) during the period ending on April 1 of the fiscal year preceding the fiscal year for which the allotment is to be made.

(b) PROPORTIONAL REDUCTION.—Subject to subsection (a)(1)(B), amounts necessary to provide allotments to States in accordance with subsection (a)(1)(B), or in accordance with subsection (a)(1)(C) as increased under subsection (a)(3), or to provide allotments under subsection (a)(2)(B), shall be derived by proportionately reducing the allotments of the remaining States under subsection (a)(1), but with such adjustments as may be necessary to prevent the allotment of any such remaining States from being thereby reduced to less than the greater of $275,000 or one-third of one percent of the sums made available for purposes of this part for the fiscal year for which the allotment is made, as increased in accordance with subsection (a)(3).

(c) REALLOTMENT.—Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be expended by such State in carrying out the provisions of this part, the Commissioner shall make such amount available for carrying out the provisions of this part to one or more of the States that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the State (as determined under the preceding provisions of this section) for such year.

(29 U.S.C. 796e)

SEC. 712. PAYMENTS TO STATES FROM ALLOTMENTS.

(a) PAYMENTS.—From the allotment of each State for a fiscal year under section 711, the State shall be paid the Federal share of the expenditures incurred during such year under its State plan approved under section 706. Such payments may be made (after necessary adjustments on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments and on such conditions as the Commissioner may determine.

(b) FEDERAL SHARE.—

(1) IN GENERAL.—The Federal share with respect to any State for any fiscal year shall be 90 percent of the expenditures incurred by the State during such year under its State plan approved under section 706.

(2) NON-FEDERAL SHARE.—The non-Federal share of the cost of any project that receives assistance through an allotment under this part may be provided in cash or in kind, fairly evaluated, including plant, equipment, or services.

(3) DETERMINATION.—For the purpose of determining the Federal share with respect to any State, expenditures by a political subdivision of such State shall, subject to regulations prescribed by the Commissioner, be regarded as expenditures by such State.

(29 U.S.C. 796e–1)

SEC. 713. AUTHORIZED USES OF FUNDS.

The State may use funds received under this part to provide the resources described in section 705(e), relating to the Statewide Independent Living Council, and may use funds received under this part—

(1) to provide independent living services to individuals with severe disabilities;

(2) to demonstrate ways to expand and improve independent living services;

(3) to support the operation of centers for independent living;

(4) to support activities to increase the capacities of public or nonprofit agencies and organizations and other entities to develop comprehensive approaches or systems for providing independent living services;

(5) to conduct studies and analyses, gather information, develop model policies and procedures, and present information, approaches, strategies, findings, conclusions, and recommendations to Federal, State, and local policymakers in order to enhance independent living services for individuals with disabilities;

(6) to train individuals with disabilities and individuals providing services to individuals with disabilities and other persons regarding the independent living philosophy; and

(7) to provide outreach to populations that are unserved or underserved by programs under this title, including minority groups and urban and rural populations.

(29 U.S.C. 796e–2)

SEC. 714. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this part such sums as may be necessary for each of the fiscal years 1993, 1994, 1995, 1996, and 1997.

(29 U.S.C. 796e–3)

PART C—CENTERS FOR INDEPENDENT LIVING

SEC. 721. PROGRAM AUTHORIZATION.

(a) IN GENERAL.—From the funds appropriated for fiscal year 1994 and for each subsequent fiscal year to carry out this part, the Commissioner shall allot such sums as may be necessary to States and other entities in accordance with subsections (b) through (d).

(b) TRAINING.—

(1) GRANTS; CONTRACTS; OTHER ARRANGEMENTS.—For any fiscal year in which the funds appropriated to carry out this part exceed the funds appropriated to carry out this part for fiscal year 1993, the Commissioner shall first reserve from such excess, to provide training and technical assistance for such fiscal year, not less than 1.8 percent, and not more than 2 percent, of such funds.

(2) ALLOCATION.—From the funds reserved under paragraph (1), the Commissioner shall make grants to, and enter into contracts and other arrangements with, entities who have experience in the operation of centers for independent living to provide such training and technical assistance with respect to planning, developing, conducting, administering, and evaluating centers for independent living.

(3) FUNDING PRIORITIES.—The Commissioner shall conduct a survey of Statewide Independent Living Councils and centers for independent living regarding training and technical assistance needs in order to determine funding priorities for such grants, contracts, and other arrangements.

(4) REVIEW.—To be eligible to receive a grant or enter into a contract or other arrangement under this subsection, such an entity shall submit an application to the Commissioner at such time, in such manner, and containing a proposal to provide such training and technical assistance, and containing such additional information as the Commissioner may require. The Commissioner shall provide for peer review of grant applications by panels that include persons who are not government employees and who have experience in the operation of centers for independent living.

(5) PROHIBITION ON COMBINED FUNDS.—No funds reserved by the Commissioner under this subsection may be combined with funds appropriated under any other Act or part of this Act if the purpose of combining funds is to make a single discretionary grant or a single discretionary payment, unless such funds appropriated under this chapter are separately identified in such grant or payment and are used for the purposes of this chapter.

(c) IN GENERAL.—

(1) STATES.—

(A) POPULATION BASIS.—Except as provided in subparagraphs (B) and (C) and after the reservation required by subsection (b) has been made, from the remainder of the amounts appropriated for each such fiscal year to carry out this part, the Commissioner shall make an allotment to each State whose State plan has been approved under section 706 of an amount bearing the same ratio to such remainder as the population of the State bears to the population of all States.

(B) Maintenance of 1992 amounts.—Subject to the availability of appropriations to carry out this part, the amount of any allotment made under subparagraph (A) to a State for a fiscal year shall not be less than the amount of financial assistance received by centers for independent living in the State for fiscal year 1992 under part B of this title, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992.

(C) Minimums.—Subject to the availability of appropriations to carry out this part and except as provided in subparagraph (B), for a fiscal year in which the amounts appropriated to carry out this part exceed the amounts appropriated for fiscal year 1992 to carry out part B of this title, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992—

(i) if such excess is not less than $8,000,000, the allotment to any State under subparagraph (A) shall be not less than $450,000 or one-third of one percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than $450,000 or one-third of one percent of such sums shall be increased to the greater of the two amounts;

(ii) if such excess is not less than $4,000,000 and is less than $8,000,000, the allotment to any State under subparagraph (A) shall be not less than $400,000 or one-third of one percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than $400,000 or one-third of one percent of such sums shall be increased to the greater of the two amounts; and

(iii) if such excess is less than $4,000,000, the allotment to any State under subparagraph (A) shall approach, as nearly as possible, the greater of the two amounts described in clause (ii).

(2) Certain territories.—

(A) In general.—For the purposes of this subsection, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau shall not be considered to be States.

(B) Allotment.—Each jurisdiction described in subparagraph (A) shall be allotted not less than one-eighth of one percent of the remainder for the fiscal year for which the allotment is made, except that the Republic of Palau may receive such allotment under this section only until the Compact of Free Association with Palau takes effect.

(3) Adjustment for inflation.—For any fiscal year, beginning in fiscal year 1994, in which the total amount appropriated to carry out this part exceeds the total amount appro-

priated to carry out this part for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index For All Urban Consumers published by the Secretary of Labor under section 100(c)(1), the Commissioner shall increase the minimum allotment under paragraph (1)(C) by such percentage change in the Consumer Price Index For All Urban Consumers.

(d) REALLOTMENT.—Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be expended by such State for carrying out the provisions of this part, the Commissioner shall make such amount available for carrying out the provisions of this part to one or more of the States that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the State (as determined under the preceding provisions of this section) for such year.

(e) TRANSITION RULES.—

(1) RESERVATION.—

(A) FISCAL YEAR 1993.—For fiscal year 1993, the Commissioner shall first reserve from the funds appropriated to carry out this part, not less than 1.8 percent, and not more than 2 percent, of such funds, whichever is greater, for training, technical assistance, and transition assistance, to centers for independent living.

(B) TRAINING AND TECHNICAL ASSISTANCE.—From the funds reserved under subparagraph (A), the Commissioner shall make grants to, and enter into contracts and other arrangements with, entities who have experience in the operation of centers for independent living, to—

(i) provide such training and technical assistance with respect to planning, developing, conducting, administering, and evaluating centers for independent living; and

(ii) provide such transition assistance to assist the centers with efforts to achieve compliance with the standards and assurances set forth in this part.

(C) REVIEW.—To be eligible to receive a grant or enter into a contract or other arrangement under this paragraph, such an entity shall submit an application to the Commissioner at such time, in such manner, and containing a proposal to provide such training, technical assistance, and transition assistance and containing such additional information as the Commissioner may require. The Commissioner shall provide for peer review of such proposals by panels that include persons who are not government employees and who have experience in the operation of centers for independent living.

(D) PROHIBITION ON COMBINED FUNDS.—An entity that receives funds under this paragraph shall comply with subsection (b)(5) with respect to the funds.

(2) IN GENERAL.—

(A) GRANTS.—After the reservation required by paragraph (1) has been made, and from the remainder of the funds appropriated for fiscal year 1993 to carry out this part, the Secretary is authorized to make grants to eligible agencies described in subparagraph (B) to operate centers for independent living.

(B) AGENCIES.—

(i) FISCAL YEAR 1992 RECIPIENTS.—Private nonprofit agencies that received funding directly or through subgrants or contracts under part B, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992, in fiscal year 1992 shall receive assistance under this part for fiscal year 1993 if the agencies submit applications that demonstrate to the satisfaction of the Commissioner that as of October 1, 1993, such agencies will meet the standards described in section 725(b) and that contain the assurances described in section 725(c). In determining whether a center meets the standards described in section 725(b), the Commissioner will look for information that shows how the center will meet each standard. The Commissioner shall consider any data on past performance that is provided by the agency that shows how the center has been meeting the standards.

(ii) OTHER AGENCIES.—Private nonprofit agencies that did not receive assistance under part B, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992, in fiscal year 1992 may receive assistance under this part for fiscal year 1993 if the agencies submit satisfactory applications for fiscal year 1993. In determining whether an application is satisfactory, the Secretary shall use the criteria for selection of centers specified in section 722(d)(2)(B).

(C) PRIORITY.—The Secretary may not award funds to a private nonprofit agency that did not receive assistance under part B, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992, in fiscal year 1992 until the Secretary has funded all agencies within each State that received such funding and have submitted applications described in subparagraph (B)(i) for fiscal year 1993.

(29 U.S.C. 796f)

SEC. 722. GRANTS TO CENTERS FOR INDEPENDENT LIVING IN STATES IN WHICH FEDERAL FUNDING EXCEEDS STATE FUNDING.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Unless the director of a designated State unit awards grants under section 723 to eligible agencies in a State for a fiscal year, the Commissioner shall award grants under this section to such eligible agencies for such fiscal year

from the amount of funds allotted to the State under subsection (c) or (d) of section 721 for such year.

(2) GRANTS.—The Commissioner shall award such grants, from the amount of funds so allotted, to such eligible agencies for the planning, conduct, administration, and evaluation of centers for independent living that comply with the standards and assurances set forth in section 725.

(b) ELIGIBLE AGENCIES.—In any State in which the Commissioner has approved the State plan required by section 704, the Commissioner may make a grant under this section to any eligible agency that—

(1) has the power and authority to carry out the purpose of this part and perform the functions set forth in section 725 within a community and to receive and administer funds under this part, funds and contributions from private or public sources that may be used in support of a center for independent living, and funds from other public and private programs;

(2) is determined by the Commissioner to be able to plan, conduct, administer, and evaluate a center for independent living consistent with the standards and assurances set forth in section 725; and

(3) submits an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

(c) EXISTING ELIGIBLE AGENCIES.—In the administration of the provisions of this section, the Commissioner shall award grants to any eligible agency that is receiving funds under this part on September 30, 1993, unless the Commissioner makes a finding that the agency involved fails to meet program and fiscal standards and assurances set forth in section 725.

(d) NEW CENTERS FOR INDEPENDENT LIVING.—

(1) IN GENERAL.—If there is no center for independent living serving a region of the State or a region is underserved, and the increase in the allotment of the State is sufficient to support an additional center for independent living in the State, the Commissioner may award a grant under this section to the most qualified applicant, consistent with the provisions in the State plan setting forth the design of the State for establishing a statewide network of centers for independent living.

(2) SELECTION.—In selecting from among applicants for a grant under this section for a new center for independent living, the Commissioner—

(A) shall consider comments regarding the application, if any, by the Statewide Independent Living Council in the State in which the applicant is located;

(B) shall consider the ability of each such applicant to operate a center for independent living based on—

(i) evidence of the need for such a center;

(ii) any past performance of such applicant in providing services comparable to independent living services;

(iii) the plan for satisfying or demonstrated success in satisfying the standards and the assurances set forth in section 725;

(iv) the quality of key personnel and the involvement of individuals with severe disabilities;

(v) budgets and cost-effectiveness;

(vi) an evaluation plan; and

(vii) the ability of such applicant to carry out the plans; and

(C) shall give priority to applications from applicants proposing to serve geographic areas within each State that are currently unserved or underserved by independent living programs, consistent with the provisions of the State plan submitted under section 704 regarding establishment of a statewide network of centers for independent living.

(3) CURRENT CENTERS.—Notwithstanding paragraphs (1) and (2), a center for independent living that receives assistance under part B (or part A as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992) for a fiscal year for the general operation of the center shall be eligible for a grant for the subsequent fiscal year under this subsection.

(e) ORDER OF PRIORITIES.—The Commissioner shall be guided by the following order of priorities in allocating funds among centers for independent living within a State, to the extent funds are available:

(1) The Commissioner shall support existing centers for independent living, as described in subsection (c), that comply with the standards and assurances set forth in section 725, at the level of funding for the previous year.

(2) The Commissioner shall provide for a cost-of-living increase for such existing centers for independent living.

(3) The Commissioner shall fund new centers for independent living, as described in subsection (d), that comply with the standards and assurances set forth in section 725.

(f) REVIEW.—

(1) IN GENERAL.—The Commissioner shall periodically review each center receiving funds under this section to determine whether such center is in compliance with the standards and assurances set forth in section 725. If the Commissioner determines that any center receiving funds under this section is not in compliance with the standards and assurances set forth in section 725, the Commissioner shall immediately notify such center that it is out of compliance.

(2) ENFORCEMENT.—The Commissioner shall terminate all funds under this section to such center 90 days after the date of such notification unless the center submits a plan to achieve compliance within 90 days of such notification and such plan is approved by the Commissioner.

(29 U.S.C. 796f–1)

SEC. 723. GRANTS TO CENTERS FOR INDEPENDENT LIVING IN STATES IN WHICH STATE FUNDING EQUALS OR EXCEEDS FEDERAL FUNDING.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—

(A) INITIAL YEAR.—

(i) DETERMINATION.—Beginning on October 1, 1993, the director of a designated State unit, as provided in paragraph (2), or the Commissioner, as provided in paragraph (3), shall award grants under this section for an initial fiscal year if the Commissioner determines that the amount of State funds that were earmarked by a State for a preceding fiscal year to support the general operation of centers for independent living meeting the requirements of this part equaled or exceeded the amount of funds allotted to the State under subsection (c) or (d) of section 721 for such year.

(ii) GRANTS.—The director or the Commissioner, as appropriate, shall award such grants, from the amount of funds so allotted for the initial fiscal year, to eligible agencies in the State for the planning, conduct, administration, and evaluation of centers for independent living that comply with the standards and assurances set forth in section 725.

(iii) REGULATION.—The Commissioner shall by regulation specify the preceding fiscal year with respect to which the Commissioner will make the determinations described in clause (i) and subparagraph (B).

(B) SUBSEQUENT YEARS.—For each year subsequent to the initial fiscal year described in subparagraph (A), the director of the designated State unit shall continue to have the authority to award such grants under this section if the Commissioner determines that the State continues to earmark the amount of State funds described in subparagraph (A)(i). If the State does not continue to earmark such an amount for a fiscal year, the State shall be ineligible to make grants under this section after a final year following such fiscal year, as defined in accordance with regulations established by the Commissioner, and for each subsequent fiscal year.

(2) GRANTS BY DESIGNATED STATE UNITS.—In order for the designated State unit to be eligible to award the grants described in paragraph (1) and carry out this section for a fiscal year with respect to a State, the designated State agency shall submit an application to the Commissioner at such time, and in such manner as the Commissioner may require, including information about the amount of State funds described in paragraph (1) for the preceding fiscal year. If the Commissioner makes a determination described in subparagraph (A)(i) or (B), as appropriate, of paragraph (1), the Commissioner shall approve the application and designate the director of the designated State unit to award the grant and carry out this section.

(3) GRANTS BY COMMISSIONER.—If the designated State agency of a State described in paragraph (1) does not submit and obtain approval of an application under paragraph (2), the Commissioner shall award the grant described in paragraph (1) to the State in accordance with section 722.

(b) Eligible Agencies.—In any State in which the Commissioner has approved the State plan required by section 704, the director of the designated State unit may award a grant under this section to any eligible agency that—

(1) has the power and authority to carry out the purpose of this part and perform the functions set forth in section 725 within a community and to receive and administer funds under this part, funds and contributions from private or public sources that may be used in support of a center for independent living, and funds from other public and private programs;

(2) is determined by the director to be able to plan, conduct, administer, and evaluate a center for independent living, consistent with the standards and assurances set forth in section 725; and

(3) submits an application to the director at such time, in such manner, and containing such information as the head of the designated State unit may require.

(c) Existing Eligible Agencies.—In the administration of the provisions of this section, the director of the designated State unit shall award grants under this section to any eligible agency that is receiving funds under this part on September 30, 1993, unless the director makes a finding that the agency involved fails to comply with the standards and assurances set forth in section 725.

(d) New Centers for Independent Living.—

(1) In general.—If there is no center for independent living serving a region of the State or the region is unserved or underserved, and the increase in the allotment of the State is sufficient to support an additional center for independent living in the State, the director of the designated State unit may award a grant under this section from among eligible agencies, consistent with the provisions of the State plan under section 704 setting forth the design of the State for establishing a statewide network of centers for independent living.

(2) Selection.—In selecting from among eligible agencies in awarding a grant under this part for a new center for independent living—

(A) the director of the designated State unit and the chairperson of, or other individual designated by, the Statewide Independent Living Council acting on behalf of and at the direction of the Council, shall jointly appoint a peer review committee that shall rank applications in accordance with the standards and assurances set forth in section 725 and criteria jointly established by such director and such chairperson or individual;

(B) the peer review committee shall consider the ability of each such applicant to operate a center for independent living, and shall recommend an applicant to receive a grant under this section, based on—

(i) evidence of the need for a center for independent living, consistent with the State plan;

(ii) any past performance of such applicant in providing services comparable to independent living services;

(iii) the plan for complying with, or demonstrated success in complying with, the standards and the assurances set forth in section 725;

(iv) the quality of key personnel of the applicant and the involvement of individuals with severe disabilities by the applicant;

(v) the budgets and cost-effectiveness of the applicant;

(vi) the evaluation plan of the applicant; and

(vii) the ability of such applicant to carry out the plans; and

(C) the director of the designated State unit shall award the grant on the basis of the recommendations of the peer review committee if the actions of the committee are consistent with Federal and State law.

(3) CURRENT CENTERS.—Notwithstanding paragraphs (1) and (2), a center for independent living that receives assistance under part B (or part A as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992) for a fiscal year for the general operation of the center shall be eligible for a grant for the subsequent fiscal year under this subsection.

(e) ORDER OF PRIORITIES.—Unless the director of the designated State unit and the chairperson of the Council or other individual designated by the Council acting on behalf of and at the direction of the Council jointly agree on another order of priority, the director shall be guided by the following order of priorities in allocating funds among centers for independent living within a State, to the extent funds are available:

(1) The director of the designated State unit shall support existing centers for independent living, as described in subsection (c), that comply with the standards and assurances set forth in section 725, at the level of funding for the previous year.

(2) The director of the designated State unit shall provide for a cost-of-living increase for such existing centers for independent living.

(3) The director of the designated State unit shall fund new centers for independent living, as described in subsection (d), that comply with the standards and assurances set forth in section 725.

(f) REVIEW.—

(1) IN GENERAL.—The director of the designated State unit shall periodically review each center receiving funds under this section to determine whether such center is in compliance with the standards and assurances set forth in section 725. If the director of the designated State unit determines that any center receiving funds under this section is not in compliance with the standards and assurances set forth in section 725, the director of the designated State unit shall immediately notify such center that it is out of compliance.

(2) ENFORCEMENT.—The director of the designated State unit shall terminate all funds under this section to such center 90 days after—

(A) the date of such notification; or

(B) in the case of a center that requests an appeal under subsection (h), the date of any final decision under subsection (h),

unless the center submits a plan to achieve compliance within 90 days and such plan is approved by the director, or if appealed, by the Commissioner.

(g) ON-SITE COMPLIANCE REVIEW.—The director of the designated State unit shall conduct on-site compliance review of centers for independent living. Each team that conducts on-site compliance review of centers for independent living shall include at least one person who is not an employee of the designated State agency, who has experience in the operation of centers for independent living, and who is jointly selected by the director of the designated State unit and the chairperson of or other individual designated by the Council acting on behalf of and at the direction of the Council. A copy of this review shall be provided to the Commissioner.

(h) ADVERSE ACTIONS.—If the director of the designated State unit proposes to take a significant adverse action against a center for independent living, the center may seek mediation and conciliation to be provided by an individual or individuals who are free of conflicts of interest identified by the chairperson of or other individual designated by the Council. If the issue is not resolved through the mediation and conciliation, the center may appeal the proposed adverse action to the Commissioner for a final decision.

(29 U.S.C. 796f–2)

SEC. 724. CENTERS OPERATED BY STATE AGENCIES.

(a) FISCAL YEAR 1993.—

(1) IN GENERAL.—Notwithstanding section 702(1), if—

(A) no nonprofit private agency—

(i) submits an acceptable application to operate a center for independent living for fiscal year 1993 before a date specified by the Commissioner; and

(ii) obtains approval of the application under section 722 or 723; and

(B) a State directly operated such a center in fiscal year 1992 with funds provided under part B, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992,

the State may apply to the Commissioner for assistance under section 721(e)(2) for the conduct, administration, and evaluation of such a center.

(2) COMPLIANCE.—A State that receives assistance with respect to a center in accordance with paragraph (1) shall ensure that the center shall comply with all of the requirements of this part, other than the requirement that the center be a private nonprofit agency.

(b) FISCAL YEAR 1994 AND SUCCEEDING FISCAL YEARS.—A State that receives assistance for fiscal year 1993 with respect to a center in accordance with subsection (a) may continue to receive assistance under this part for fiscal year 1994 or a succeeding fiscal year if, for such fiscal year—

(1) no nonprofit private agency—

(A) submits an acceptable application to operate a center for independent living for fiscal year 1993 before a date specified by the Commissioner; and

(B) obtains approval of the application under section 722 or 723; or

(2) after funding all applications so submitted and approved, the Commissioner determines that funds remain available to provide such assistance.

(29 U.S.C. 796f–3)

SEC. 725. STANDARDS AND ASSURANCES FOR CENTERS FOR INDEPENDENT LIVING.

(a) IN GENERAL.—Each center for independent living that receives assistance under this part shall comply with the standards set out in subsection (b) and provide and comply with the assurances set out in subsection (c) in order to ensure that all programs and activities under this part are planned, conducted, administered, and evaluated in a manner consistent with the purposes of this chapter and the objective of providing assistance effectively and efficiently.

(b) STANDARDS.—

(1) PHILOSOPHY.—The center shall promote and practice the independent living philosophy of—

(A) consumer control of the center regarding decisionmaking, service delivery, management, and establishment of the policy and direction of the center;

(B) self-help and self-advocacy;

(C) development of peer relationships and peer role models; and

(D) equal access of individuals with severe disabilities to society and to all services, programs, activities, resources, and facilities, whether public or private and regardless of the funding source.

(2) PROVISION OF SERVICES.—The center shall provide services to individuals with a range of severe disabilities. The center shall provide services on a cross-disability basis (for individuals with all different types of severe disabilities, including individuals with disabilities who are members of populations that are unserved or underserved by programs under this Act). Eligibility for services at any center for independent living shall not be based on the presence of any one or more specific severe disabilities.

(3) INDEPENDENT LIVING GOALS.—The center shall facilitate the development and achievement of independent living goals selected by individuals with severe disabilities who seek such assistance by the center.

(4) COMMUNITY OPTIONS.—The center shall work to increase the availability and improve the quality of community options for independent living in order to facilitate the development and achievement of independent living goals by individuals with severe disabilities.

(5) INDEPENDENT LIVING CORE SERVICES.—The center shall provide independent living core services and, as appropriate, a

combination of any other independent living services specified in section 7(30)(B).

(6) ACTIVITIES TO INCREASE COMMUNITY CAPACITY.—The center shall conduct activities to increase the capacity of communities within the service area of the center to meet the needs of individuals with severe disabilities.

(7) RESOURCE DEVELOPMENT ACTIVITIES.—The center shall conduct resource development activities to obtain funding from sources other than this chapter.

(c) ASSURANCES.—The eligible agency shall provide at such time and in such manner as the Commissioner may require, such satisfactory assurances as the Commissioner may require, including satisfactory assurances that—

(1) the applicant is an eligible agency;

(2) the center will be designed and operated within local communities by individuals with disabilities, including an assurance that the center will have a Board that is the principal governing body of the center and a majority of which shall be composed of individuals with severe disabilities;

(3) the applicant will comply with the standards set forth in subsection (b);

(4) the applicant will establish clear priorities through annual and 3-year program and financial planning objectives for the center, including overall goals or a mission for the center, a work plan for achieving the goals or mission, specific objectives, service priorities, and types of services to be provided, and a description that shall demonstrate how the proposed activities of the applicant are consistent with the most recent 3-year State plan under section 704;

(5) the applicant will use sound organizational and personnel assignment practices, including taking affirmative action to employ and advance in employment qualified individuals with severe disabilities on the same terms and conditions required with respect to the employment of individuals with disabilities under section 503;

(6) the applicant will ensure that the majority of the staff, and individuals in decisionmaking positions, of the applicant are individuals with disabilities;

(7) the applicant will practice sound fiscal management, including making arrangements for an annual independent fiscal audit;

(8) the applicant will conduct annual self-evaluations, prepare an annual report, and maintain records adequate to measure performance with respect to the standards, containing information regarding, at a minimum—

(A) the extent to which the center is in compliance with the standards;

(B) the number and types of individuals with severe disabilities receiving services through the center;

(C) the types of services provided through the center and the number of individuals with severe disabilities receiving each type of service;

(D) the sources and amounts of funding for the operation of the center;

(E) the number of individuals with severe disabilities who are employed by, and the number who are in management and decisionmaking positions in, the center; and

(F) a comparison, when appropriate, of the activities of the center in prior years with the activities of the center in the most recent year;

(9) individuals with severe disabilities who are seeking or receiving services at the center will be notified by the center of the existence of, the availability of, and how to contact, the client assistance program;

(10) aggressive outreach regarding services provided through the center will be conducted in an effort to reach populations of individuals with severe disabilities that are unserved or underserved by programs under this title, especially minority groups and urban and rural populations;

(11) staff at centers for independent living will receive training on how to serve such unserved and underserved populations, including minority groups and urban and rural populations;

(12) the center will submit to the Statewide Independent Living Council a copy of its approved grant application and the annual report required under paragraph (8);

(13) the center will prepare and submit a report to the designated State unit or the Commissioner, as the case may be, at the end of each fiscal year that contains the information described in paragraph (8) and information regarding the extent to which the center is in compliance with the standards set forth in subsection (b); and

(14) an independent living plan described in section 704(e) will be developed unless the individual who would receive services under the plan signs a waiver stating that such a plan is unnecessary.

(29 U.S.C. 796f–4)

SEC. 726. DEFINITIONS.

As used in this part, the term "eligible agency" means a consumer-controlled, community-based, cross-disability, nonresidential private nonprofit agency.

(29 U.S.C. 796f–5)

SEC. 727. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this part such sums as may be necessary for each of the fiscal years 1993, 1994, 1995, 1996, and 1997.

(29 U.S.C. 796f–6)

CHAPTER 2—INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND

SEC. 751. DEFINITION.

For purposes of this chapter, the term "older individual who is blind" means an individual age 55 or older whose severe visual impairment makes competitive employment extremely difficult to attain but for whom independent living goals are feasible.

(29 U.S.C. 796j)

SEC. 752. PROGRAM OF GRANTS.

(a) In General.—

(1) Authority for grants.—Subject to subsections (b) and (c), the Commissioner may make grants to States for the purpose of providing the services described in subsection (d) to older individuals who are blind.

(2) Designated state unit.—The Commissioner may not make a grant under subsection (a) unless the State involved agrees that the grant will be administered solely by the agency described in section 101(a)(1)(A)(i).

(b) Contingent Competitive Grants.—Beginning with fiscal year 1994, in the case of any fiscal year for which the amount appropriated under section 753 is less than $13,000,000, grants under subsection (a) shall be discretionary grants made on a competitive basis to States.

(c) Contingent Formula Grants.—

(1) In general.—In the case of any fiscal year for which the amount appropriated under section 753 is equal to or greater than $13,000,000, grants under subsection (a) shall be made only to States and shall be made only from allotments under paragraph (2).

(2) Allotments.—For grants under subsection (a) for a fiscal year described in paragraph (1), the Commissioner shall make an allotment to each State in an amount determined in accordance with subsection (j), and shall make a grant to the State of the allotment made for the State if the State submits to the Commissioner an application in accordance with subsection (i).

(d) Services Generally.—The Commissioner may not make a grant under subsection (a) unless the State involved agrees that the grant will be expended only for purposes of—

(1) providing independent living services to older individuals who are blind;

(2) conducting activities that will improve or expand services for such individuals; and

(3) conducting activities to help improve public understanding of the problems of such individuals.

(e) Independent Living Services.—Independent living services for purposes of subsection (d)(1) include—

(1) services to help correct blindness, such as—

(A) outreach services;

(B) visual screening;

(C) surgical or therapeutic treatment to prevent, correct, or modify disabling eye conditions; and

(D) hospitalization related to such services;

(2) the provision of eyeglasses and other visual aids;

(3) the provision of services and equipment to assist an older individual who is blind to become more mobile and more self-sufficient;

(4) mobility training, Braille instruction, and other services and equipment to help an older individual who is blind adjust to blindness;

(5) guide services, reader services, and transportation;

(6) any other appropriate service designed to assist an older individual who is blind in coping with daily living activities, including supportive services and rehabilitation teaching services;

(7) independent living skills training, information and referral services, peer counseling, and individual advocacy training; and

(8) other independent living services, as defined in section 7(30).

(f) MATCHING FUNDS.—

(1) IN GENERAL.—The Commissioner may not make a grant under subsection (a) unless the State involved agrees, with respect to the costs of the program to be carried out by the State pursuant to such subsection, to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that is not less than $1 for each $9 of Federal funds provided in the grant.

(2) DETERMINATION OF AMOUNT CONTRIBUTED.—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

(g) CERTAIN EXPENDITURES OF GRANTS.—A State may expend a grant under subsection (a) to carry out the purposes specified in subsection (d) through grants to public and nonprofit private agencies or organizations.

(h) REQUIREMENT REGARDING STATE PLAN.—The Commissioner may not make a grant under subsection (a) unless the State involved agrees that, in carrying out subsection (d)(1), the State will seek to incorporate into the State plan under section 704 any new methods and approaches relating to independent living services for older individuals who are blind.

(i) APPLICATION FOR GRANT.—

(1) IN GENERAL.—The Commissioner may not make a grant under subsection (a) unless an application for the grant is submitted to the Commissioner and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Commissioner determines to be necessary to carry out this section (including agreements, assurances, and information with respect to any grants under subsection (j)(4)).

(2) CONTENTS.—An application for a grant under this section shall contain—

(A) an assurance that the designated State unit described in subsection (a)(2) will prepare and submit to the Commissioner a report, at the end of each fiscal year, with respect to each project or program the designated State unit operates or administers under this section, whether directly or through a grant or contract, which report shall contain, at a minimum, information on—

(i) the number and types of older individuals who are blind and are receiving services;

(ii) the types of services provided and the number of older individuals who are blind and are receiving each type of service;

(iii) the sources and amounts of funding for the operation of each project or program;

(iv) the amounts and percentages of resources committed to each type of service provided;

(v) data on actions taken to employ, and advance in employment, qualified individuals with severe disabilities, including older individuals who are blind; and

(vi) a comparison, if appropriate, of prior year activities with the activities of the most recent year;

(B) an assurance that the designated State unit will—

(i) provide services that contribute to the maintenance of, or the increased independence of, older individuals who are blind; and

(ii) engage in—

(I) capacity-building activities, including collaboration with other agencies and organizations;

(II) activities to promote community awareness, involvement, and assistance; and

(III) outreach efforts; and

(C) an assurance that the application is consistent with the State plan for providing independent living services required by section 704.

(j) Amount of Formula Grant.—

(1) In general.—Subject to the availability of appropriations, the amount of an allotment under subsection (a) for a State for a fiscal year shall be the greater of—

(A) the amount determined under paragraph (2); and

(B) the amount determined under paragraph (3).

(2) Minimum allotment.—

(A) States.—In the case of the several States, the District of Columbia, and the Commonwealth of Puerto Rico, the amount referred to in subparagraph (A) of paragraph (1) for a fiscal year is the greater of—

(i) $225,000; and

(ii) an amount equal to one-third of one percent of the amount appropriated under section 753 for the fiscal year and available for allotments under subsection (a).

(B) Certain territories.—In the case of Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau, the amount referred to in subparagraph (A) of paragraph (1) for a fiscal year is $40,000, except that the Republic of Palau may receive such allotment under this section only until the Compact of Free Association with Palau takes effect.

(3) FORMULA.—The amount referred to in subparagraph (B) of paragraph (1) for a State for a fiscal year is the product of—

(A) the amount appropriated under section 753 and available for allotments under subsection (a); and

(B) a percentage equal to the quotient of—

(i) an amount equal to the number of individuals residing in the State who are not less than 55 years of age; divided by

(ii) an amount equal to the number of individuals residing in the United States who are not less than 55 years of age.

(4) DISPOSITION OF CERTAIN AMOUNTS.—

(A) GRANTS.—From the amounts specified in subparagraph (B), the Commissioner may make grants to States whose population of older individuals who are blind has a substantial need for the services specified in subsection (d) relative to the populations in other States of older individuals who are blind.

(B) AMOUNTS.—The amounts referred to in subparagraph (A) are any amounts that are not paid to States under subsection (a) as a result of—

(i) the failure of any State to submit an application under subsection (i);

(ii) the failure of any State to prepare within a reasonable period of time such application in compliance with such subsection; or

(iii) any State informing the Commissioner that the State does not intend to expend the full amount of the allotment made for the State under subsection (a).

(C) CONDITIONS.—The Commissioner may not make a grant under subparagraph (A) unless the State involved agrees that the grant is subject to the same conditions as grants made under subsection (a).

(29 U.S.C. 796k)

SEC. 753. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this chapter such sums as may be necessary for each of the fiscal years 1993 through 1997.

(29 U.S.C. 796l)

TITLE VIII—SPECIAL DEMONSTRATIONS AND TRAINING PROJECTS

SEC. 801. AUTHORIZATION OF APPROPRIATIONS.

(a) DEMONSTRATION PROJECTS.—There are authorized to be appropriated to carry out section 802, such sums as may be necessary for each of the fiscal years 1993 through 1997.

(b) TRAINING INITIATIVES.—There are authorized to be appropriated to carry out section 803, such sums as may be necessary for each of the fiscal years 1993 through 1997.

(29 U.S.C. 797)

SEC. 802. DEMONSTRATION ACTIVITIES.

(a) Transportation Services Grants.—

(1) Grants.—The Commissioner shall make grants to States and to public or nonprofit agencies and organizations for the purpose of providing transportation services to individuals with disabilities who—

(A)(i) are employed or seeking employment; or

(ii) are receiving vocational rehabilitation services from public or private organizations; and

(B) reside in geographic areas in which fixed route public transportation or comparable paratransit service is not available.

(2) Use of grant.—The Commissioner may make a grant under this subsection only if the applicant involved agrees that transportation services under this subsection will be provided on a regular and continuing basis between—

(A) the home of the individual; and

(B) the place of employment of the individual, the place where the individual is seeking employment, or the place where the individual is receiving vocational rehabilitation services.

(3) Charges.—The Commissioner may make a grant under paragraph (1) only if the applicant involved agrees that, in providing transportation services under this subsection—

(A) a charge for the transportation will be imposed on each employed eligible individual who uses the transportation; and

(B) the amount of the charge for an instance of use of the transportation for the distance involved will be in a fair and reasonable amount that is consistent with fees for comparable services in comparable geographic areas.

(4) Report.—The Commissioner may make a grant under this subsection only if the applicant involved agrees to prepare and submit to the Commissioner, not later than December 31 of the fiscal year following the fiscal year for which the grant is made, a report containing—

(A) a description of the goals of the program carried out with the grant;

(B) a description of the activities and services provided under the program;

(C) a description of the number of eligible individuals served under the program;

(D) a description of methods used to ensure that the program serves the eligible individuals most in need of the transportation services provided under the program; and

(E) such additional information as the Commissioner may require.

(5) Construction.—Nothing in this subsection may be construed as limiting the rights or responsibilities of any individual under any other provision of this Act, under the Americans with Disabilities Act of 1990, or under any other provision of law.

(b) Projects To Achieve High Quality Placements.—

(1) SPECIAL PROJECTS AND DEMONSTRATIONS.—The Commissioner shall make grants to public or nonprofit community rehabilitation programs, designated State units, and other public or nonprofit agencies and organizations to pay for the cost of developing special projects and demonstrations related to vocational rehabilitation outcomes. Such projects and demonstrations may include activities providing alternatives to case closure practice and identifying and implementing appropriate incentives to vocational rehabilitation counselors to achieve high quality placements for individuals with the most severe disabilities.

(2) CERTAIN REQUIREMENTS.—Each recipient of such a grant shall—

(A) identify, develop, and test exemplary models that can be replicated; and

(B) identify innovative methods, such as weighted case closures, to evaluate the performance of vocational rehabilitation counselors that in no way impede the accomplishment of the purposes and policy of serving, among others, those individuals with the most severe disabilities.

(c) EARLY INTERVENTION DEMONSTRATION PROGRAMS.—

(1) GRANTS.—The Commissioner shall make grants to public or nonprofit agencies and organizations to carry out demonstration programs designed to demonstrate the utility of early intervention in furnishing vocational evaluation, training, and counseling services to working adults recently determined to have chronic and progressive diseases that may be severely disabling, such as multiple sclerosis.

(2) GRANT ACTIVITIES.—In carrying out a demonstration program under paragraph (1), an eligible entity shall conduct a program intended to demonstrate the effectiveness of such early intervention in improving the job retention of the working adults or in facilitating the entry of the working adults to new careers and employment. The demonstration program shall test a number of alternative service systems, including an employer assistance program, a system involving early intervention by State vocational rehabilitation agencies, and a private nonprofit agency joint venture with an employer or State vocational rehabilitation agency.

(d) TRANSITION DEMONSTRATION PROJECTS.—

(1) GRANTS.—The Commissioner may make grants to public or nonprofit agencies and organizations to pay part or all of the costs of special projects and demonstration projects to support models for providing community-based, coordinated services to facilitate the transition of individuals with disabilities from rehabilitation hospital or nursing home programs or comparable programs, to programs providing independent living services in the community, including services such as personal assistance services, health maintenance services, counseling, and social and vocational services.

(2) APPLICATION.—To be eligible to receive a grant under this subsection, an agency or organization shall submit an application to the Commissioner at such time, in such manner,

and containing such information as the Commissioner may require.

(3) EVALUATION.—An agency or organization that receives a grant under this subsection shall evaluate the effectiveness of such models and prepare and submit to the Commissioner a report containing the evaluation.

(e) BARRIERS TO SUCCESSFUL REHABILITATION OUTCOMES FOR MINORITIES.—The Commissioner may award grants to public or nonprofit agencies and organizations—

(1) to conduct a study to examine the factors that have created barriers to successful rehabilitation outcomes for individuals with disabilities from minority backgrounds, and develop and evaluate policy, research, and training strategies for overcoming the barriers;

(2) to conduct a study to examine the factors that have created significant underrepresentation of individuals from minority backgrounds in the rehabilitation professions, including such underrepresentation among researchers, and develop and evaluate policy, research, and training strategies for overcoming the underrepresentation; and

(3) to conduct a study to examine the factors that have created barriers to successful rehabilitation outcomes for individuals with neurological or other related disorders, and examine how the hidden or episodic nature of the disability affects eligibility and the provision of services.

(f) STUDIES, SPECIAL PROJECTS, AND DEMONSTRATION PROJECTS TO STUDY MANAGEMENT AND SERVICE DELIVERY.—

(1) GRANTS.—The Commissioner may make grants to public or nonprofit agencies and organizations to pay part or all of the costs of conducting studies, special projects, or demonstration projects relating to the management and service delivery systems of the vocational rehabilitation programs authorized under this Act.

(2) APPLICATION.—To be eligible to receive a grant under this subsection, an agency or organization shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

(g) DEMONSTRATION PROJECTS TO INCREASE CLIENT CHOICE.—

(1) GRANTS.—The Commissioner may make grants to States and public or nonprofit agencies and organizations to pay all or part of the costs of projects to demonstrate ways to increase client choice in the rehabilitation process, including the selection of providers of vocational rehabilitation services.

(2) USE OF FUNDS.—An entity that receives a grant under this subsection shall use the grant only—

(A) for activities that are directly related to planning, operating, and evaluating the demonstration projects; and

(B) to supplement, and not supplant, funds made available from Federal and non-Federal sources for such projects.

(3) APPLICATION.—Any eligible entity that desires to receive a grant under this subsection shall submit an application

at such time, in such manner, and containing such information and assurances as the Commissioner may require, including—

(A) a description of—

(i) how the applicant intends to promote increased client choice in the rehabilitation process, including a description, if appropriate, of how an applicant will determine the cost of any service or product offered to an eligible client;

(ii) how the applicant intends to ensure that any vocational rehabilitation service or related service is provided by a qualified provider who is accredited or meets such other quality assurance and cost-control criteria as the State may establish; and

(iii) the outreach activities to be conducted by the applicant to obtain eligible clients; and

(B) assurances that a written plan will be established with the full participation of the client, which plan shall, at a minimum, include—

(i) a statement of the vocational rehabilitation goals to be achieved;

(ii) a statement of the specific vocational rehabilitation services to be provided, the projected dates for their initiation, and the anticipated duration of each such service; and

(iii) objective criteria, an evaluation procedure, and a schedule, for determining whether such goals are being achieved.

(4) AWARD OF GRANTS.—In selecting entities to receive grants under paragraph (1), the Commissioner shall take into consideration the—

(A) diversity of strategies used to increase client choice, including selection among qualified service providers;

(B) geographic distribution of projects; and

(C) diversity of clients to be served.

(5) RECORDS.—Entities that receive grants under paragraph (1) shall maintain such records as the Commissioner may require and comply with any request from the Commissioner for such records.

(6) DIRECT SERVICES.—At least 80 percent of the funds awarded for any project under this subsection shall be used for direct services, as specifically chosen by eligible clients.

(7) EVALUATION.—The Commissioner shall conduct an evaluation of the demonstration projects with respect to the services provided, clients served, client outcomes obtained, implementation issues addressed, the cost effectiveness of the project, and the effects of increased choice on clients and service providers. The Commissioner may reserve funds for the evaluation for a fiscal year from the amounts appropriated to carry out projects under this subsection for the fiscal year.

(8) DEFINITIONS.—For the purposes of this subsection:

(A) DIRECT SERVICES.—The term "direct services" means vocational rehabilitation services, as described in section 103(a).

(B) ELIGIBLE CLIENT.—The term "eligible client" means an individual with a disability, as defined in section 7(8)(A), who is not currently receiving services under an individualized written rehabilitation program established through a designated State unit.

(h) NATIONAL COMMISSION ON REHABILITATION SERVICES.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—Subject to the availability of appropriations, there is hereby established a National Commission on Rehabilitation Services (referred to in this section as the "National Commission") for the purpose of studying the nature, quality, and adequacy of vocational rehabilitation, independent living, supported employment, research, training, and other programs authorized under this Act, and submitting to the President and to Congress recommendations that will further the successful employment outcomes, independence, and integration of individuals with disabilities into the workplace and community.

(B) COMPOSITION.—

(i) QUALIFICATIONS.—The National Commission shall consist of 15 members who are recognized by knowledge, experience, and education as experts in the field of rehabilitation. At least a majority of the members of the National Commission shall be individuals with disabilities representing a cross-section of individuals with different types of disabilities.

(ii) APPOINTMENT.—Members of the National Commission shall be appointed as follows:

(I) PRESIDENTIAL APPOINTEES.—Five members shall be appointed by the President, or, if the President delegates the authority to make the appointment, by the Secretary of Education.

(II) SENATE APPOINTEES.—Five members shall be appointed by the president pro tempore of the Senate, with the advice and approval of the Majority Leader and Minority Leader of the Senate.

(III) HOUSE OF REPRESENTATIVES APPOINTEES.—Five members shall be appointed by the Speaker of the House of Representatives with the advice and approval of the Majority Leader and Minority Leader of the House of Representatives.

(C) TERM.—Members shall be appointed for the life of the National Commission.

(D) VACANCIES.—Any vacancy in the National Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(E) CHAIRPERSON.—The National Commission shall select a Chairperson from among its members.

(F) MEETINGS.—The National Commission shall meet at the call of the Chairperson, but not less often than four times each year.

(G) QUORUM.—Ten members of the National Commission shall constitute a quorum.

(H) COMMITTEES.—The Chairperson, upon approval by the National Commission, may establish such committees as the Chairperson determines to be necessary to fulfill the duties of the National Commission.

(2) DUTIES.—

(A) STUDIES AND ANALYSES.—The National Commission shall conduct studies and analyses with respect to—

(i) the effectiveness of vocational rehabilitation and independent living services in enhancing the employment outcomes of individuals with disabilities;

(ii) the adequacy of research and training activities in fostering innovative approaches that further the employment of individuals with disabilities;

(iii) the capacity of supported employment and independent living services in promoting the integration of individuals with disabilities into the workplace and community;

(iv) methods for enhancing access to services authorized under this Act by minorities who are individuals with disabilities and individuals with disabilities who are members of populations that have traditionally been unserved or underserved by programs under this Act that provide such vocational rehabilitation services and independent living services;

(v) means for enhancing interagency coordination among Federal and State agencies to promote the maximization of employment-related programs, services, and benefits on behalf of individuals with disabilities; and

(vi) such other issues as the National Commission may identify as relevant to promoting the employment, independence, and integration of individuals with disabilities.

(B) POLICY ANALYSES.—The National Commission shall conduct policy analyses to—

(i) develop options for improving fiscal equity in the allotment of grants under section 110;

(ii) provide guidance on implementing the order of selection described in section 101(a)(5)(A); and

(iii) address the shortage of rehabilitation professionals.

(C) REPORTS.—

(i) INTERIM REPORT.—Not later than January 30, 1995, the National Commission shall prepare and issue a comprehensive interim report to the President, the Committee on Education and Labor of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, containing the results of the studies and analyses described in subparagraphs (A) and (B) and specific recommendations for amendments to this Act needed to promote the provision of comprehensive vocational rehabilitation and independent living services on behalf of individuals with disabilities.

(ii) FINAL REPORT.—Not later than January 30, 1997, the National Commission shall prepare and issue a comprehensive final report to the President, the Committee on Education and Labor of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, containing the results and recommendations described in clause (i).

(3) POWERS.—

(A) HEARINGS.—The National Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the National Commission determines to be necessary to carry out its functions.

(B) INFORMATION.—

(i) FEDERAL ENTITIES.—The National Commission may secure directly from any Federal department or agency such information (including statistics) as the National Commission considers necessary to carry out the functions of the National Commission. Upon request of the Chairperson of the National Commission, the head of such department or agency shall furnish such information to the National Commission.

(ii) OTHER ENTITIES.—The National Commission may secure, directly or by contract or other means, such additional information as the National Commission determines to be necessary from universities, research institutions, foundations, State and local agencies, and other public or private agencies.

(C) CONSULTATION.—The National Commission is authorized to consult with—

(i) any organization representing individuals with disabilities;

(ii) public or private service providers;

(iii) Federal, State, and local agencies;

(iv) individual experts;

(v) institutions of higher education involved in the preparation of vocational rehabilitation services personnel; and

(vi) such other entities and persons as will aid the National Commission in carrying out its duties.

(4) COMPENSATION AND TRAVEL EXPENSES.—

(A) COMPENSATION.—Each member of the National Commission who is not an officer or full-time employee of the Federal Government shall receive a payment of $150 for each day (including travel time) during which the member is engaged in the performance of duties for the National Commission. Members of the National Commission who are officers or full-time employees of the United States shall serve without compensation in addition to compensation received for their services as officers or employees of the United States.

(B) TRAVEL EXPENSES.—Each member of the National Commission may receive travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for employees serving intermittently in the Government service, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

(5) STAFF.—

(A) APPOINTMENT.—

(i) STAFF DIRECTOR.—The Chairperson of the National Commission may, without regard to provisions of title 5, United States Code, governing appointments in the competitive service, appoint and terminate a staff director of the National Commission. The employment of the staff director shall be subject to confirmation by the National Commission. The staff director shall be appointed from among individuals who are experienced in the planning, administration, or operation of vocational rehabilitation and independent living services or programs.

(ii) ADDITIONAL PERSONNEL.—The staff director of the National Commission may, without regard to provisions of title 5, United States Code, governing appointments in the competitive service, appoint and terminate such additional personnel as may be necessary, but not more than ten full-time equivalent positions, to enable the National Commission to carry out its duties.

(B) COMPENSATION.—The Chairperson of the National Commission may fix the compensation of the staff director, and the staff director may fix the compensation of the additional personnel, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates, except that the rate of pay for the staff director and other personnel may not exceed the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382 of title 5, United States Code.

(6) COOPERATION.—The heads of all Federal agencies are, to the extent not prohibited by law, directed to cooperate with the National Commission in carrying out its duties. The National Commission may utilize the services, personnel, information, and facilities of other Federal, State, local, and private agencies with or without reimbursement, upon the consent of the heads of such agencies.

(7) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the National Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(8) TERMINATION.—The National Commission shall terminate not later than 90 days following the submission of the final report as described in paragraph (2)(C)(ii).

(i) MODEL PERSONAL ASSISTANCE SERVICES SYSTEMS.—The Commissioner may award grants to public or nonprofit agencies and organizations to establish model personal assistance services systems and other innovative service programs to maximize the full inclusion and integration into society, employment, independent living, and economic and social self-sufficiency of individuals with disabilities.

(j) DEMONSTRATION PROJECTS TO UPGRADE WORKER SKILLS.—

(1) GRANTS.—Consistent with the purposes of section 621, the Commissioner may make grants to partnerships or consortia that include private business concerns or industries to pay for the Federal share of developing and carrying out model demonstration projects for workers with disabilities who need new or upgraded skills to adapt to emerging technologies, work methods, and markets and to ensure that such individuals possess the knowledge and skills necessary to compete in the workplace.

(2) PERIOD.—Grants made under this subsection shall be for 3-year periods.

(3) APPLICATION.—Any partnership or consortia desiring to receive a grant under this subsection shall submit an application to the Commissioner at such time, in such manner, and containing such information and assurances as the Commissioner may require, including—

(A) information identifying at least one member of the partnership or consortium that is a private business concern or industry; and

(B) assurances that—

(i) each member of the eligible partnership or consortium will pay a portion of the non-Federal share of the cost of developing and carrying out the project;

(ii) the partnership or consortium will carry out all of the activities described in subparagraphs (A) through (E) of section 621(a)(2);

(iii) the partnership or consortium will disseminate information on the model program conducted;

(iv) the partnership or consortium will utilize, if available, job skill standards established jointly by management and labor to assist in evaluating the job skills of an individual and assessing the skills that are needed for the individual to compete in the workplace;

(v) the partnership or consortium will prepare and submit an evaluation report containing data specified by the Commissioner at the end of each project year; and

(vi) the partnership or consortium will take such steps as are necessary to continue the activities of the project after the period for which Federal assistance is sought.

(4) DEFINITION.—For the purposes of this subsection, the term "workers with disabilities" shall mean individuals with disabilities who are working in competitive employment and who need new or upgraded skills to improve their employment and career advancement opportunities.

(k) MODEL SYSTEMS REGARDING SEVERE DISABILITIES.—The Commissioner may award grants to public or nonprofit agencies and organizations to establish model systems of comprehensive service delivery to individuals with severe disabilities, other than spinal cord injuries, requiring a multidisciplinary system of providing vocational and other rehabilitation services, where the Commissioner determines that the development of such systems is needed.

(29 U.S.C. 797a)

SEC. 803. TRAINING ACTIVITIES.

(a) DISTANCE LEARNING THROUGH TELECOMMUNICATIONS.—

(1) GRANTS.—The Commissioner shall award at least three grants to eligible institutions of higher education, to support the formation of regional partnerships with other public or private entities for the purpose of developing and implementing in-service training programs, including certificate or degree granting programs concerning vocational rehabilitation services and related services, for vocational rehabilitation professionals through the use of telecommunications.

(2) APPLICATIONS.—Any eligible entity that desires to receive a grant under this subsection shall submit an application at such time, in such manner, and containing such information and assurances as the Commissioner may require, including—

(A) a detailed explanation of how the applicant will utilize interactive audio, video, and computer technologies between distant locations to provide in-service training programs to the region;

(B) a description of how the applicant intends to utilize and build upon existing telecommunications networks within the region to be served;

(C) a copy of all agreements governing the division of functions within the partnership, including an assurance that all States within the region will be served;

(D) a copy of a binding commitment entered into between the partnership and each entity that is legally permitted to provide, and from which the partnership is to obtain, the telecommunications services and facilities required for the project, that stipulates that if the partnership receives the grant the entity will provide such telecommunications services and facilities in the area to be served within a reasonable time and at a charge that is in accordance with State law;

(E) a description of the curriculum to be provided, frequency of providing service, and sites of service;

(F) a description of the need to purchase or lease—

(i) computer hardware and software;

(ii) audio and video equipment;

(iii) telecommunications terminal equipment; or

(iv) interactive video equipment;

(G) an assurance that the partnership will use not less than 75 percent of the amount of the grant for instructional curriculum development and programming; and

(H) a description of the means by which the project will be evaluated.

(3) AWARD OF GRANTS.—In awarding grants under paragraph (1), the Commissioner shall take into consideration the sparsity of State populations in the region to be served.

(4) DEFINITIONS.—For the purposes of this subsection:

(A) ELIGIBLE ENTITY.—The term "eligible entity" means any institution of higher education with demonstrated experience in the area of continuing education for vocational rehabilitation personnel.

(B) INTERACTIVE VIDEO EQUIPMENT.—The term "interactive video equipment" means equipment used to produce and prepare video and audio signals for transmission between distant locations so that individuals at such locations can see and hear each other, and related equipment.

(C) REGION.—The term "region" means one of the ten regions served by the Rehabilitation Services Administration.

(D) REHABILITATION PROFESSIONALS.—The term "rehabilitation professionals" means personnel described in section 301(a)(1).

(b) BRAILLE TRAINING PROJECTS.—

(1) ESTABLISHMENT.—The Commissioner shall make grants to and enter into contracts with States and public or nonprofit agencies and organizations, including institutions of higher education, to pay all or part of the cost of training in the use of Braille for personnel providing vocational rehabilitation services or educational services to youth and adults who are blind.

(2) PROJECTS.—Such grants shall be used for the establishment or continuation of projects that may provide—

(A) development of Braille training materials; and

(B) in-service or pre-service training in the use of Braille and methods of teaching Braille to youth and adults who are blind.

(3) APPLICATION.—To be eligible to receive a grant, or enter into a contract, under paragraph (1), an agency or organization shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

(c) PARENT INFORMATION AND TRAINING PROGRAMS.—

(1) GRANTS.—The Commissioner is authorized to make grants through a separate competition to private nonprofit organizations for the purpose of establishing programs to provide training and information to enable individuals with disabilities, and the parents, family members, guardians, advocates, or other authorized representatives of the individuals to participate more effectively with professionals in meeting the vocational and rehabilitation needs of individuals with disabilities. Such grants shall be designed to meet the unique training and information needs of individuals with disabilities, and the parents, family members, guardians, advocates, or other authorized representatives of the individuals, who live in the area to be served, particularly those who are members of populations that have been unserved or underserved by programs under this Act.

(2) USE OF GRANTS.—An organization that receives a grant to establish training and information programs under this subsection shall use the grant to assist individuals with disabil-

ities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals to—

(A) better understand vocational rehabilitation and independent living programs and services;

(B) provide followup support for transition and employment programs;

(C) communicate more effectively with transition and rehabilitation personnel and other relevant professionals;

(D) provide support in the development of the individualized written rehabilitation program;

(E) provide support and expertise in obtaining information about rehabilitation and independent living programs, services, and resources that are appropriate; and

(F) understand the provisions of this Act, particularly provisions relating to employment, supported employment, and independent living.

(3) Award of grants.—The Commissioner shall ensure that grants under this subsection shall—

(A) be distributed geographically to the greatest extent possible throughout all States; and

(B) be targeted to individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals, in both urban and rural areas or on a State or regional basis.

(4) Eligible organizations.—In order to receive a grant under this subsection, a private nonprofit organization shall—

(A) submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require, including information demonstrating the capacity and expertise of the organization to—

(i) coordinate and work closely with parent training and information centers established under section 631 of the Individuals with Disabilities Education Act (20 U.S.C. 1431); and

(ii) effectively conduct the training and information activities authorized under this subsection;

(B)(i) be governed by a board of directors—

(I) that includes professionals in the field of vocational rehabilitation; and

(II) on which a majority of the members are individuals with disabilities or the parents, family members, guardians, advocates, or authorized representatives of the individuals; or

(ii)(I) have a membership that represents the interests of individuals with disabilities; and

(II) establish a special governing committee that meets the requirements specified in subclauses (I) and (II) of clause (i) to operate a training and information program under this subsection; and

(C) serve individuals with a full range of disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals.

(5) Consultation.—Each private nonprofit organization carrying out a program receiving assistance under this subsection shall consult with appropriate agencies that serve or assist individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals, located in the jurisdiction served by the program.

(6) Coordination.—The Commissioner shall provide coordination and technical assistance by grant or cooperative agreement for establishing, developing, and coordinating the training and information programs. To the extent practicable, such assistance shall be provided by the parent training and information centers established under section 631 of the Individuals with Disabilities Education Act (20 U.S.C. 1431).

(7) Review.—

(A) Quarterly review.—The board of directors or special governing committee of a nonprofit private organization receiving a grant under this subsection shall meet at least once in each calendar quarter to review the training and information program, and each such committee shall directly advise the governing board regarding the views and recommendations of the committee.

(B) Review for grant renewal.—If a nonprofit private organization requests the renewal of a grant under this subsection, the board of directors or the special governing committee shall prepare and submit to the Commissioner a written review of the training and information program conducted by the nonprofit private organization during the preceding fiscal year.

(d) Training Regarding Impartial Hearing Officers.—The Commissioner may award grants to public or nonprofit agencies and organizations to provide training designed to provide impartial hearing officers with the skills necessary to fairly decide appeals under this Act.

(e) Recruitment and Retention of Urban Personnel.—The Commissioner may award grants to public or nonprofit agencies and organizations to develop and demonstrate innovative methods to attract and retain professionals to serve in urban areas in the rehabilitation of individuals with disabilities, including individuals with severe disabilities.

(f) Certain Requirements.—The requirements of subsections (a) (except the first sentence), (b), and (c), of section 302, and paragraphs (1) and (2) of subsection (g) of such section, shall apply with respect to grants made available under this section, other than subsection (c). The requirements of section 306 shall apply with respect to grants made available under this section.

(29 U.S.C. 797b)

SOCIAL SECURITY ACT

Social Security Act

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TITLE IV—GRANTS TO STATES FOR AID AND SERVICES TO NEEDY FAMILIES WITH CHILDREN AND FOR CHILD-WELFARE SERVICES

Part A—Aid to Families With Dependent Children

* * * * * * *

STATE PLANS FOR AID AND SERVICES TO NEEDY FAMILIES WITH CHILDREN

SEC. 402. (a) A State plans for aid and services to needy families with children must—

* * * * * * *

(19) provide—

(A) that the State has in effect and operation a job opportunities and basic skills training program which meets the requirements of part F;

(B) that—

(i) the State will (except as otherwise provided in this paragraph or part F), to the extent that the program is available in the political subdivision involved and State resources otherwise permit—

(I) require all recipients of aid to families with dependent children in such subdivision with respect to whom the State guarantees child care in accordance with section 402(g) to participate in the program; and

(II) allow applicants for and recipients of aid to families with dependent children (and individuals who would be recipients of such aid if the State had not exercised the option under section 407(b)(2)(B)(i)) who are not required under subclause (I) to participate in the program to do so on a voluntary basis;

(ii) in determining the priority of participation by individuals from among those groups described in clauses (i), (ii), (iii), and (iv) of section 403(l)(2)(B), the State will give first consideration to applicants for or recipients of aid to families with dependent children within any such group who volunteer to participate in the program;

(iii) if an exempt participant drops out of the program without good cause after having commenced participation in the program, he or she shall thereafter not be given priority so long as other individuals are actively seeking to participate; and

(iv) the State need not require or allow participation of an individual in the program if as a result of such participation the amount payable to the State for quarters in a fiscal year with respect to the program would be reduced pursuant to section 403(l)(2);

(C) that an individual may not be required to participate in the program if such individual—

(i) is ill, incapacitated, or of advanced age;

(ii) is needed in the home because of the illness or incapacity of another member of the household;

(iii) subject to subparagraph (D)—

(I) is the parent or other relative of a child under 3 years of age (or, if so provided in the State plan, under any age that is less than 3 years but not less than one year) who is personally providing care for the child, or

(II) is the parent or other relative personally providing care for a child under 6 years of age, unless the State assures that child care in accordance with section 402(g) will be guaranteed and that participation in the program by the parent or relative will not be required for more than 20 hours a week;

(iv) works 30 or more hours a week;

(v) is a child who is under age 16 or attends, fulltime, an elementary, secondary, or vocational (or technical) school;

(vi) is pregnant if it has been medically verified that the child is expected to be born in the month in which such participation would otherwise be required or within the 6-month period immediately following such month; or

(vii) resides in an area of the State where the program is not available;

(D) that, in the case of a family eligible for aid to families with dependent children by reason of the unemployment of the parent who is the principal earner, subparagraph (C)(iii) shall apply only to one parent, except that, in the case of such a family, the State may at its option make such subparagraph inapplicable to both of the parents (and require their participation in the program) if child care in accordance with section 402(g) is guaranteed with respect to the family;

(E) that—

(i) to the extent that the program is available in the political subdivision involved and State resources otherwise permit, in the case of a custodial parent who has not attained 20 years of age, has not successfully completed a high-school education (or its equivalent), and is required to participate in the program (including an individual who would otherwise be exempt from participation in the program solely by reason of subparagraph (C)(iii)), the State agency (subject to clause (ii)) will require such parent to participate in an educational activity; and

(ii) the State agency may—

(I) require a parent described in clause (i) (notwithstanding the part-time requirement in subparagraph (C)(iii)(II)) to participate in educational activities directed toward the attainment of a high school diploma or its equivalent on a full-time (as defined by the educational provider) basis,

(II) establish criteria in accordance with regulations of the Secretary under which custodial parents described in clause (i) who have not attained 18 years of age may be exempted from the school attendance requirement under such clause, or

(III) require a parent described in clause (i) who is age 18 or 19 to participate in training or work activities (in lieu of the educational activities under such clause) if such parent fails to make good progress in successfully completing such educational activities or if it is determined (prior to any assignment of the individual to such educational activities) pursuant to an educational assessment that participation in such educational activities is inappropriate for such parent;

(F) that—

(i) if the parent or other caretaker relative or any dependent child in the family is attending (in good standing) an institution of higher education (as defined in section 481(a) of the Higher Education Act of 1965), or a school or course of vocational or technical training (not less than half time) consistent with the individual's employment goals, and is making satisfactory progress in such institution, school, or course, at the time he or she would otherwise commence participation in the program under this section, such attendance may constitute satisfactory participation in the program (by that caretaker or child) so long as it continues and is consistent with such goals;

(ii) any other activities in which an individual described in clause (i) participates may not be permitted to interfere with the school or training described in that clause;

(iii) the costs of such school or training shall not constitute federally reimbursable expenses for purposes of section 403; and

(iv) the costs of day care, transportation, and other services which are necessary (as determined by the State agency) for such attendance in accordance with section 402(g) are eligible for Federal reimbursement;

(G) that—

(i) if an individual who is required by the provisions of this paragraph to participate in the program or who is so required by reason of the State's having exercised the option under subparagraph (D) fails without good cause to participate in the program or refuses without good cause to accept employment in which such individual is able to engage which is offered through the public employment offices of the State, or is otherwise offered by an employer if the offer of such employer is determined to be a bona fide offer of employment—

(I) the needs of such individual (whether or not section 407 applies) shall not be taken into account in making the determination with respect to his or her family under paragraph (7) of this subsection, and if such individual is a parent or other caretaker relative, payments of aid for any dependent child in the family in the form of payments of the type described in section 406(b)(2) (which in such a case shall be without regard to clauses (A) through (D) thereof) will be made unless the State agency, after making reasonable efforts, is unable to locate an appropriate individual to whom such payments can be made; and

(II) if such individual is a member of a family which is eligible for aid to families with dependent children by reason of section 407, and his or her spouse is not participating in the program, the needs of such spouse shall also not be taken into account in making such determination;

(ii) any sanction described in clause (i) shall continue—

(I) in the case of the individual's first failure to comply, until the failure to comply ceases;

(II) in the case of the individual's second failure to comply, until the failure to comply ceases or 3 months (whichever is longer); and

(III) in the case of any subsequent failure to comply, until the failure to comply ceases or 6 months (whichever is longer);

(iii) the State will promptly remind any individual whose failure to comply has continued for 3 months, in writing, of the individual's option to end the sanction by terminating such failure; and

(iv) no sanction shall be imposed under this subparagraph—

(I) on the basis of the refusal of an individual described in subparagraph (C)(iii)(II) to accept employment, if the employment would require such individual to work more than 20 hours a week, or

(II) on the basis of the refusal of an individual to participate in the program or accept employment, if child care (or day care for any incapacitated individual living in the same home as a dependent child) is necessary for an individual to participate in the program or accept employment, such care is not available, and the State agency fails to provide such care; and

(H) the State agency may require a participant in the program to accept a job only if such agency assures that the family of such participant will experience no net loss of cash income resulting from acceptance of the job; and any costs incurred by the State agency as a result of this subparagraph shall be treated as expenditures with respect to which section 403(a)(1) or 403(a)(2) applies;

* * * * * * *

(35) At the option of the State, provide—

(A) that as a condition of eligibility for aid under the State plan of any individual claiming such aid who is required to register pursuant to paragraph (19)(A) (or who would be required to register under paragraph (19)(A) but for clause (iii) thereof), including all such individuals or only such groups, types, or classes thereof as the State agency may designate for purposes of this paragraph, such individual will be required to participate in a program of employment search—

(i) beginning at the time he applies for such aid (or an application including his need is filed) and continuing for a period (prescribed by the State) of not more than eight weeks (but this requirement may not be used as a reason for any delay in making a determination of an individual's eligibility for aid or in issuing a payment to or in behalf of any individual who is otherwise eligible for such aid); and

(ii) at such time or times after the close of the period prescribed under clause (i) as the State agency may determine but not to exceed a total of 8 weeks in any 12 consecutive months;

(B) that any individual participating in a program of employment search under this paragraph will be furnished such transportation and other services, or paid (in allowance or by way of reimbursement) such amounts to cover transportation costs and other expenses reasonably incurred in meeting requirements imposed on him under this paragraph, as may be necessary to enable such individual to participate in such program; and

(C) that, in the case of an individual who fails without good cause to comply with requirements imposed upon him under this paragraph, the sanctions imposed by paragraph (19)(F) shall be applied in the same manner as if the individual had made a refusal of the type which would cause the provisions of such paragraph (19)(F) to be applied (except that the State may at its option, for purposes of this paragraph, reduce the period for which such sanctions would otherwise be in effect);

(36) provide, at the option of the State, that in making the determination for any month under paragraph (7), the State agency shall not include as income any support or maintenance assistance furnished to or on behalf of the family which (as determined under regulations of the Secretary by such State agency as the chief executive officer of the State may designate) is based on need for such support and maintenance, including assistance received to assist in meeting the costs of home energy (including both heating and cooling), and which is (A) assistance furnished in kind by a private nonprofit agency, or (B) assistance furnished by a supplier of home heating oil or gas, by an entity whose revenues are primarily derived on a rate-of-return basis regulated by a State or Federal governmental entity, or by a municipal utility providing home energy;

(37) provide that if any family becomes ineligible to receive aid to families with dependent children because of hours of or income from employment of the caretaker relative or because of paragraph

(8)(B)(ii)(II), having received such aid in at least 3 of the 6 months immediately preceding the month in which such ineligibility begins, the family shall remain eligible for medical assistance under the State's plan approved under title XIX for an extended period or periods as provided in section 1925, and that the family will be appropriately notified of such extension (in the State agency's notice to the family of the termination of its eligibility for such aid) as required by section 1925(a)(2);

(38) provide that in making the determination under paragraph (7) with respect to a dependent child and applying paragraph (8), the State agency shall (except as otherwise provided in this part) include—

(A) any parent of such child, and

(B) any brother or sister of such child, if such brother or sister meets the conditions described in clauses (1) and (2) of section 406(a) or in section 407(a),

if such parent, brother, or sister is living in the same home as the dependent child, and any income of or available for such parent, brother, or sister shall be included in making such determination and applying such paragraph with respect to the family (notwithstanding section 205(j), in the case of benefits provided under title II);

(39) provide that in making the determination under paragraph (7) with respect to a dependent child whose parent is under the age of 18, the State agency shall (except as otherwise provided in this part) include any income of such minor's own parents who are living in the same home as such minor and dependent child, to the same extent that income of a stepparent is included under paragraph (31);

(40) provide, if the State has elected to establish and operate a fraud control program under section 416, that the State will submit to the Secretary (with such revisions as may from time to time be necessary) a description of and budget for such program, and will operate such program in full compliance with that section;

(41) provide that aid to families with dependent children will be provided under the plan with respect to dependent children of unemployed parents in accordance with section 407;

(42) provide that if, under section 407(b)(2)(B)(i), the State limits the number of months for which a family may receive aid to families with dependent children, the State shall provide medical assistance to all members of the family under the State's plan approved under title XIX without time limitation;

(43) at the option of the State, provide that—

(A) subject to subparagraph (B), in the case of any individual who is under the age of 18 and has never married, and who has a dependent child in his or her care (or is pregnant and is eligible for aid to families with dependent children under the State plan)—

(i) such individual may receive aid to families with dependent children under the plan for the individual and such child (or for herself in the case of a pregnant woman) only if such individual and child (or such pregnant woman) reside in a place of residence maintained by a parent, legal guardian, or other adult relative of such individual as such parent's, guardian's, or adult relative's own home, or reside in a foster home, maternity home, or other adult-supervised supportive living arrangement; and

(ii) such aid (where possible) shall be provided to the parent, legal guardian, or other adult relative on behalf of such individual and child; and

(B) subparagraph (A) does not apply in the case where—

(i) such individual has no parent or legal guardian of his or her own who is living and whose whereabouts are known;

(ii) no living parent or legal guardian of such individual allows the individual to live in the home of such parent or guardian;

(iii) the State agency determines that the physical or emotional health or safety of such individual or such dependent child would be jeopardized if such individual and such dependent child lived in the same residence with such individual's own parent or legal guardian;

(iv) such individual lived apart from his or her own parent or legal guardian for a period of at least one year before either the birth of any such dependent child or the individual having made application for aid to families with dependent children under the plan; or

(v) the State agency otherwise determines (in accordance with regulations issued by the Secretary) that there is good cause for waiving such subparagraph;

(44) provide that the State agency shall—

(A) be responsible for assuring that the benefits and services under the programs under this part, part D, and part F are furnished in an integrated manner, and

(B) consistent with the provisions of this title, ensure that all applicants for and recipients of aid to families with dependent children are encouraged, assisted, and required to cooperate in the establishment of paternity and the enforcement of child support obligations, and are notified of the paternity establishment and child support services for which they may be eligible; and

(45) provide (in accordance with regulations issued by the Secretary) for appropriate measures to detect fraudulent applications for aid to families with dependent children prior to the establishment of eligibility for such aid. The Secretary may waive any of the requirements imposed under or in connection with paragraphs (13) and (14) of this subsection to the extent necessary to make such requirements compatible with the corresponding reporting and budgeting requirements by the Food Stamp Act of 1977.

(b) The Secretary shall approve any plan which fulfills the conditions specified in subsection (a), except that he shall not approve any plan which imposes as a condition of eligibility for aid to families with dependent children a residence requirement which denies aid with respect to any child residing in the State (1) who has resided in the State for one year immediately preceding the application for such aid, or (2) who was born within one year immediately preceding the application, if the parent or other relative with whom the child is living has resided in the State for one year immediately preceding the birth.

(c) The Secretary shall, on the basis of his review of the reports received from the States under paragraph (15) of subsection (a), compile such data as he believes necessary and from time to time publish his findings as to the effectiveness of the programs developed and administered by the States under such paragraph. The Secretary shall annually report to the Congress (with the first such report being made on or before July 1, 1970) on the programs developed and administered by each State under such paragraph (15).

(d)(1) For purposes of paragraphs (7) and (8) of subsection (a), any refund of Federal income taxes made by reason of section 32 of the Internal Revenue Code of 1954 (relating to earned income credit and any payment made by an employer under section 3507 of such Code (relating to advance payment of earned income credit) shall be considered earned income.

(2) In any case in which such advance payments for a taxable year made by all employers to an individual under section 3507 of such Code exceed the amount of such individual's earned income credit allowable under section 32 of such Code for such year, so that such individual is liable under section 32(g) of such Code for a tax equal to such excess, such individual's benefit amount must be appropriately adjusted so as to provide payment to such individual of an amount equal to the amount of the benefits lost by such individual on account of such excess advance payments.

(e)(1) The Secretary shall not approve the initial and annually updated advance automatic data processing planning document, referred to in subsection (a)(30), unless he finds that such document, when implemented, will generally carry out the objectives of the statewide management system referred to in such subsection, and such document—

(A) provides for the conduct of, and reflects the results of, requirements analysis studies, which include consideration of the program mission, functions, organization, services, constraints, and current support, of, in, or relating to, such system,

(B) contains a description of the proposed statewide management system, including description of information flows, input data, and output report and uses,

(C) sets forth the security and interface requirements to be employed in such statewide management system,

(D) describes the projected resource requirements for staff and other needs, and the resources available or expected to be available to meet such requirements,

(E) includes cost-benefit analyses of each alternative management system, data processing services and equipment, and a cost allocation plan containing the basis for rates, both direct and indirect, to be in effect under such statewide management system,

(F) contains an implementation plan with charts of development events, testing descriptions, proposed acceptance criteria, and backup and fallback procedures to handle possible failure of contingencies, and

(G) contains a summary of proposed improvement of such statewide management system in terms of qualitative and quantitative benefits.

(2)(A) The Secretary shall, on a continuing basis, review, assess, and inspect the planning, design, and operation of, statewide management information systems referred to in section 403(a)(3)(B), with a view to determining whether, and to what extent, such systems meet and continue to meet requirements imposed under such section and to conditions specified under subsection (a)(30) of this section.

(B) If the Secretary finds with respect to any statewide management information system referred to in section 403(a)(3)(B) that there is a failure substantially to comply with criteria, requirements, and other undertakings, prescribed by the advance automatic data processing planning document therefore approved by the Secretary with respect to such system, then the Secretary shall suspend his approval of such document until there is no longer any such failure of such system to comply with such criteria, requirements, and other undertakings so prescribed.

(42 U.S.C. 602)

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[SEC. 409. Repealed by Public Law 100–485, Oct. 13, 1988, 102 Stat. 2378.]

[SEC. 414. Repealed by Public Law 100–485, Oct. 13, 1988, 102 Sat. 2378.]

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PART C—[Repealed by Public Law 100–485, Oct. 13, 1988, 102 Stat. 2377.]

RESEARCH, TRAINING, OR DEMONSTRATION PROJECTS

SEC. 426. (a) There are hereby authorized to be appropriated for each fiscal year such sums as the Congress may determine—

(1) for grants by the Secretary—

(A) to public or other nonprofit institutions of higher learning, and to public or other nonprofit agencies and organizations engaged in research or child-welfare activities, for special research or demonstration projects in the field of child welfare which are of regional or national significance and for special projects for the demonstration of new methods or facilities which show promise of substantial contribution to the advancement of child welfare;

(B) to State or local public agencies responsible for administering, or supervising the administration of, the plan under this part, for projects for the demonstration of the utilization of research (including findings resulting therefrom) in the field of child welfare in order to encourage experimental and special types of welfare services; and

(C) to public or other nonprofit institutions of higher learning for special projects for training personnel for work in the field of child welfare, including traineeships with such stipends and allowances as may be permitted by the Secretary; and

(2) for contracts or jointly financed cooperative arrangements with States and public and other organizations and agencies for the conduct of research, special projects, or demonstration projects relating to such matters.

(b)(1) There are authorized to be appropriated $4,000,000 for each of the fiscal years 1988, 1989, and 1990 for grants by the Secretary to public or private nonprofit entities submitting applications under this subsection for the purpose of conducting demonstration projects under this subsection to develop alternative care arrangements for infants who do not have health conditions that require hospitalization and who would otherwise remain in inappropriate hospital settings.

(2) The demonstration projects conducted under this section may include—

(A) multidisciplinary projects designed to prevent the inappropriate hospitalization of infants and to allow infants described in paragraph (1) to remain with or return to a parent in a residential setting, where appropriate care for the infant and suitable treatment for the parent (including treatment for drug or alcohol addiction) may be assured, with the goal (where possible) of rehabilitating the parent and eliminating the need for such care for the infant;

(B) multidisciplinary projects that assure appropriate, individualized care for such infants in a foster home or other nonmedical residential setting in cases where such infant does not require hospitalization and would otherwise remain in inappropriate hospital settings, including projects to demonstrate methods to recruit, train, and retain foster care families; and

(C) such other projects as the Secretary determines will best serve the interests of such infants and will serve as models for projects that agencies or organizations in other communities may wish to develop.

(3) In the case of any project which includes the use of funds authorized under this subsection for the care of infants in foster homes or other non-medical residential settings away from their parents, there shall be developed for each such infant a case plan of the type described in section 475(1) (to the extent that such infant is not otherwise covered by such a plan), and each such project shall include a case review system of the type described in section 475(5) (covering each such infant who is not otherwise subject to such a system).

(4) In evaluating applications from entities proposing to conduct demonstration projects under this subsection, the Secretary shall give priority to those projects that serve areas most in need of alternative care arrangements for infants described in paragraph (1).

(5) No project may be funded unless the application therefor contains assurances that it will—

(A) provide for adequate evaluation;

(B) provide for coordination with local governments;

(C) provide for community education regarding the inappropriate hospitalization of infants;

(D) use, to the extent practical, other available private, local, State, and Federal sources for the provision of direct services; and

(E) meet such other criteria as the Secretary may prescribe.

(6) Grants may be used to pay the costs of maintenance and of necessary medical and social services (to the extent that these costs are not otherwise paid for under other titles of this Act), and for such other purposes as the Secretary may allow.

(7) The Secretary shall provide training and technical assistance to grantees, as requested.

(c) Payments of grants or under contracts or cooperative arrangements under this section may be made in advance or by way of reimbursement, and in such installments, as the Secretary may determine; and shall be made on such conditions as the Secretary finds necessary to carry out the purposes of the grants, contracts, or other arrangements.

(42 U.S.C. 626) Enacted Jan. 2, 1968, P.L. 90-248, sec. 240(c), 81 Stat. 915; amended Dec. 22, 1987, P.L. 100-203, sec. 9137, 101 Stat. 1330-319—1330-320.

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TITLE IX—MISCELLANEOUS PROVISIONS RELATING TO EMPLOYMENT SECURITY

EMPLOYMENT SECURITY ADMINISTRATION ACCOUNT

Establishment Of Account

SEC. 901. (a) There is hereby established in the Unemployment Trust Fund an employment security administration account.

Appropriations to Account

(b)(1) There is hereby appropriated to the Unemployment Trust Fund for credit to the employment security administration account, out of any moneys in the Treasury not otherwise appropriated, for the fiscal year ending June 30, 1961, and for each fiscal year thereafter, an amount equal to 100 per centum of the tax (including interest, penalties, and additions to the tax) received during the fiscal year under the Federal Unemployment Tax Act and covered into the Treasury.

(2) The amount appropriated by paragraph (1) shall be transferred at least monthly from the general fund of the Treasury to the Unemployment Trust Fund and credited to the employment security administration account. Each such transfer shall be based on estimates made by the Secretary of the Treasury of the amounts received in the Treasury. Proper adjustments shall be made in the amounts subsequently transferred, to the extent prior estimates (including estimates for the fiscal year ending June 30, 1960) were in excess of or were less than the amounts required to be transferred.

(3) The Secretary of the Treasury is directed to pay from time to time from the employment security administration account into the Treasury, as repayments to the account for refunding internal

revenue collections, amounts equal to all refunds made after June 30, 1960, of amounts received as tax under the Federal Unemployment Tax Act (including interest on such refunds).

Administrative Expenditures

(c)(1) There are hereby authorized to be made available for expenditure out of the employment security administration account for the fiscal year ending June 30, 1971, and for each fiscal year thereafter—

(A) such amounts (not in excess of the applicable limit provided by paragraph (3) and, with respect to clause (ii), not in excess of the limit provided by paragraph (4)) as the Congress may deem appropriate for the purpose of—

(i) assisting the States in the administration of their unemployment compensation laws as provided in title III (including administration pursuant to agreements under any Federal unemployment compensation law),

(ii) the establishment and maintenance of systems of public employment offices in accordance with the Act of June 6, 1933, as amended (29 U.S.C. secs. 49–49n), and

(iii) carrying into effect section 4103 of title 38 of the United States Code;

(B) such amounts (not in excess of the limit provided by paragraph (4) with respect to clause (iii)) as the Congress may deem appropriate for the necessary expenses of the Department of Labor for the performance of its functions under—

(i) this title and titles III and XII of this Act,

(ii) the Federal Unemployment Tax Act,

(iii) the provisions of the Act of June 6, 1933, as amended,

(iv) chapter 41 (except section 4103) of title 38 of the United States Code, and

(v) any Federal unemployment compensation law.

The term "necessary expenses" as used in this subparagraph (B) shall include the expense of reimbursing a State for salaries and other expenses of employees of such State temporarily assigned or detailed to duty with the Department of Labor and of paying such employees for travel expenses, transportation of household goods, and per diem in lieu of subsistence while away from their regular duty stations in the State, at rates authorized by law for civilian employees of the Federal Government.

(2) The Secretary of the Treasury is directed to pay from the employment security administration account into the Treasury as miscellaneous receipts the amount estimated by him which will be expended during a three-month period by the Treasury Department for the performance of its functions under—

(A) this title and titles III and XII of this Act, including the expenses of banks for servicing unemployment benefit payment and clearing accounts which are offset by the maintenance of balances of Treasury funds with such banks,

(B) the Federal Unemployment Tax Act, and

(C) any Federal unemployment compensation law with respect to which responsibility for administration is vested in the Secretary of Labor.

If it subsequently appears that the estimates under this paragraph in any particular period were too high or too low, appropriate adjustments shall be made by the Secretary of the Treasury in future payments.

(3)(A) For purposes of paragraph (1)(A), the limitation on the amount authorized to be made available for any fiscal year after June 30, 1970, is, except as provided in subparagraph (B) and in the second sentence of section 901(f)(3)(A), an amount equal to 95 percent of the amount estimated and set forth in the budget of the United States Government for such fiscal year as the amount by which the net receipts during such year under the Federal Unemployment Tax Act will exceed the amount transferred under section 905(b) during such year to the extended unemployment compensation account.

(B) The limitation established by subparagraph (A) is increased by any unexpended amount retained in the employment security administration account in accordance with section 901(f)(2)(B).

(C) Each estimate of net receipts under this paragraph shall be based upon a tax rate of 0.6 percent.

(4) For purposes of paragraphs (1)(A)(ii) and (1)(B)(iii) the amount authorized to be made available out of the employment security administration account for any fiscal year after June 30, 1972, shall reflect the proportion of the total cost of administering the system of public employment offices in accordance with the Act of June 6, 1933, as amended, and of the necessary expenses of the Department of Labor for the performance of its functions under the provisions of such Act, as the President determines is an appropriate charge to the employment security administration account, and reflects in his annual budget for such year. The President's determination, after consultation with the Secretary, shall take into account such factors as the relationship between employment subject to State laws and the total labor force in the United States, the number of claimants and the number of job applicants, and such other factors as he finds relevant.

Additional Tax Attributable to Reduced Credits

(d)(1) The Secretary of the Treasury is directed to transfer from the employment security administration account—

(A) To the Federal unemployment account, an amount equal to the amount by which—

(i) 100 per centum of the additional tax received under the Federal Unemployment Tax Act with respect to any State by reason of the reduced credits provisions of section 3302(c)(3) of such Act and covered into the Treasury for the repayment of advances made to the State under section 1201, exceeds

(ii) the amount transferred to the account of such State pursuant to subparagraph (B) of this paragraph.

Any amount transferred pursuant to this subparagraph shall be credited against, and shall operate to reduce, that balance of advances, made under section 1201 to the State, with respect to which employers paid such additional tax.

(B) To the account (in the Unemployment Trust Fund) of the State with respect to which employers paid such additional tax an amount equal to the amount by which such additional tax received and covered into the Treasury exceeds that balance of advances, made under section 1201 to the State, with respect to which employers paid such additional tax.

(2) Transfers under this subsection shall be as of the beginning of the month succeeding the month in which the moneys were credited to the employment security administration account pursuant to subsection (b)(2).

Revolving Fund

(e)(1) There is hereby established in the Treasury a revolving fund which shall be available to make the advances authorized by this subsection. There are hereby authorized to be appropriated, without fiscal year limitation, to such revolving fund such amounts as may be necessary for the purposes of this section.

(2) The Secretary of the Treasury is directed to advance from time to time from the revolving fund to the employment security administration account such amounts as may be necessary for the purposes of this section. If the net balance in the employment security administration account as of the beginning of any fiscal year equals 40 percent of the amount of the total appropriation by the Congress out of the employment security administration account for the preceding fiscal year, no advance may be made under this subsection during such fiscal year.

(3) Advances to the employment security administration account made under this subsection shall bear interest until repaid at a rate equal to the average rate of interest (computed as of the end of the calendar month next preceding the date of such advance) borne by all interest-bearing obligations of the United States then forming a part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 per centum, the rate of interest shall be the multiple of one-eighth of 1 per centum next lower than such average rate.

(4) Advances to the employment security administration account made under this subsection, plus interest accrued thereon, shall be repaid by the transfer from time to time, from the employment security administration account to the revolving fund, of such amounts as the Secretary of the Treasury, in consultation with the Secretary of Labor, determines to be available in the employment security administration account for such repayment. Any amount transferred as a repayment under this paragraph shall be credited against, and shall operate to reduce, any balance of advances (plus accrued interest) repayable under this subsection.

Determination Of Excess Amount To Be Retained In Employment Security Administration Account

(f)(1) The Secretary of the Treasury shall determine as of the close of each fiscal year (beginning with the fiscal year ending June

30, 1961) the excess in the employment security administration account.

(2) The excess in the employment security administration account as of the close of any fiscal year is the amount by which the net balance in such account as of such time (after the application of section 902(b) and section 901(f)(3)(C)) exceeds the net balance in the employment security administration account as of the beginning of that fiscal year (including the fiscal year for which the excess is being computed) for which the net balance was higher than as of the beginning of any other such fiscal year.

(3)(A) The excess determined as provided in paragraph (2) as of the close of any fiscal year after June 30, 1972, shall be retained (as of the beginning of the succeeding fiscal year) in the employment security administration account until the amount in such account is equal to 40 percent of the amount of the total appropriation by the Congress out of the employment security administration account for the fiscal year for which the excess is determined. Three-eighths of the amount in the employment security administration account as of the beginning of any fiscal year after June 30, 1972, or $150 million, whichever is the lesser, is authorized to be made available for such fiscal year pursuant to subsection (c)(1) for additional costs of administration due to an increase in the rate of insured unemployment for a calendar quarter of at least 15 percent over the rate of insured unemployment for the corresponding calendar quarter in the immediately preceding year.

(B) If the entire amount of the excess determined as provided in paragraph (2) as the close of any fiscal year after June 30, 1972, is not retained in the employment security administration account, there shall be transferred (as of the beginning of the succeeding fiscal year) to the extended unemployment compensation account the balance of such excess or so much thereof as is required to increase the amount in the extended unemployment compensation account to the limit provided in section 905(b)(2).

(C) If as of the close of any fiscal year after June 30, 1972, the amount in the extended unemployment compensation account exceeds the limit provided in section 905(b)(2), such excess shall be transferred to the employment security administration account as of the close of such fiscal year.

(4) For the purposes of this section, the net balance in the employment security administration account as of any time is the amount in such account as of such time reduced by the sum of—

(A) the amount then subject to transfer pursuant to subsection (d), and

(B) the balance of advances (plus interest accrued thereon) then repayable to the revolving fund established by subsection (e).

The net balance in the employment security administration account as of the beginning of any fiscal year shall be determined after the disposition of the excess in such account as of the close of the preceding fiscal year.

(42 U.S.C. 1101)

* * * * * * *

NATIONAL COMMISSION ON CHILDREN

SEC. 1139. (a)(1) There is hereby established a commission to be known as the National Commission on Children (in this section referred to as the "Commission").

(b)(1) The Commission shall consist of—

(A) 12 members to be appointed by the President,

(B) 12 members to be appointed by the Speaker of the House of Representatives, and

(C) 12 members to be appointed by the President pro tempore of the Senate.

(2) The President, the Speaker, and the President pro tempore shall each appoint as members of the Commission—

(A) 4 individuals who—

(i) are representatives of organizations providing services to children,

(ii) are involved in activities on behalf of children, or

(iii) have engaged in academic research with respect to the problems and needs of children,

(B) 4 individuals who are elected or appointed public officials (at the Federal, State, or local level) involved in issues and programs relating to children, and

(C) 4 individuals who are parents or representatives of parents or parents' organizations.

(3) The appointments made pursuant to subparagraphs (B) and (C) of paragraph (1) shall be made in consultation with the chairmen of committees of the House of Representatives and the Senate, respectively, having jurisdiction over relevant Federal programs.

(c)(1) It shall be the duty and function of the Commission to serve as a forum on behalf of the children of the Nation and to conduct the studies and issue the report required by subsection (d).

(2) The Commission (and any committees that it may form) shall conduct public hearings in different geographic areas of the country, both urban and rural, in order to receive the views of a broad spectrum of the public on the status of the Nation's children and on ways to safeguard and enhance the physical, mental, and emotional well-being of all of the children of the Nation, including those with physical or mental disabilities, and others whose circumstances deny them a full share of the opportunities that parents of the Nation may rightfully expect for their children.

(3) The Commission shall receive testimony from individuals, and from repesentatives of public and private organizations and institutions with an interest in the welfare of children, including educators, health care professionals, religious leaders, providers of social services, representatives of organizations with children as members, elected and appointed public officials, and from parents and children speaking in their own behalf.

(d) The Commission shall submit to the President, and to the Committees on Finance and Labor and Human Resources of the Senate and the Committees on Ways and Means, Education and Labor, and Energy and Commerce of the House of Representatives, an interim report no later than March 31, 1990, and a final report no later than March 31, 1991, setting forth[1] recommendations with respect to the following subjects:

(1) Questions relating to the health of children that the Commission shall address include—

(A) how to reduce infant mortality,

(B) how to reduce the number of low-birth-weight babies,

(C) how to reduce the number of children with chronic illnesses and disabilities,

(D) how to improve the nutrition of children,

(E) how to promote the physical fitness of children,

(F) how to ensure that pregnant women receive adequate prenatal care,

(G) how to ensure that all children have access to both preventive and acute care health services, and

(H) how to improve the quality and availability of health care for children.

(2) Questions relating to social and support services for children and their parents that the Commission shall address include—

(A) how to prevent and treat child neglect and abuse,

(B) how to provide help to parents who seek assistance in meeting the problems of their children,

(C) how to provide counseling services for children,

(D) how to strengthen the family unit,

(E) how children can be assured of adequate care while their parents are working or participating in education of training programs,

(F) how to improve foster care and adoption services,

(G) how to reduce drug and alcohol abuse by children and youths, and

(H) how to reduce the incidence of teenage pregnancy.

(3) Questions relating to education that the Commission shall address include—

(A) how to encourage academic excellence for all children at all levels of education,

(B) how to use preschool experiences to enhance educational achievement,

(C) how to improve the qualifications of teachers,

(D) how schools can better prepare the Nation's youth to compete in the labor market,

(E) how parents and schools can work together to help children achieve success at each step of the academic ladder,

(F) how to encourage teenagers to complete high school and remain in school to fulfill their academic potential,

(G) how to address the problems of drug and alcohol abuse by young people,

(H) how schools might lend support to efforts aimed at reducing the incidence of teenage pregnancy, and

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[1] Sections 4207(k)(6) and 5057 of P.L. 101-508 made conflicting amendments to section 1139(d). The amendment made by section 4207(k)(6) has been executed.

(I) how schools might better meet the special needs of children who have physical or mental handicaps.

(4) Questions relating to income security that the Commission shall address include—

(A) how to reduce poverty among children,

(B) how to ensure that parents support their children to the fullest extent possible through improved child support collection services, including services on behalf of children whose parents are unmarried, and

(C) how to ensure that cash assistance to needy children is adequate.

(5) Questions relating to tax policy that the Commission shall address include—

(A) how to assure the equitable tax treatment of families with children,

(B) the effect of existing tax provisions, including the dependent care tax credit, the earned income tax credit, and the targeted jobs tax credit, on children living in poverty,

(C) whether the dependent care tax credit should be refundable and the effect of such a policy,

(D) whether the earned income tax credit should be adjusted for family size and the effect of such a policy, and

(E) whether there are other tax-related policies which would reduce poverty among children.

(6) In addition to addressing the questions specified in paragraphs (1) through (5), the Commission shall—

(A) seek to identify ways in which public and private organizations and institutions can work together at the community level to identify deficiencies in existing services for families and children and to develop recommendations to ensure that the needs of families and children are met, using all available resources, in a coordinated and comprehensive manner, and

(B) assess the existing capacities of agencies to collect and analyze data on the status of children and on relevant programs, identify gaps in the data collection system, and recommend ways to improve the collection of data and the coordination among agencies in the collection and utilization of data.

The reports required by this subsection shall be based upon the testimony received in the hearings conducted pursuant to subsection (c), and upon other data and findings developed by the Commission.

(e)(1)(A) Members of the Commission shall first be appointed not later than 670 days after the date of the enactment of this section, for terms ending on September 30, 1990.[1]

(B) A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the vacant position was first filled.

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[1] P.L. 101–239, sec. 6221(2), 103 Stat. 2255, provided that subsection (e) is amended by striking "September 30, 1990" and inserting "March 31, 1991". The amendment cannot be executed because the amendatory instructions did not specify which of the two occurrences was to be struck or whether both of the occurrences were to be struck.

(2) The Commission shall elect one of its members to serve as Chairman of the Commission. The Chairman shall be a nonvoting member of the Commission.

(3) A majority of the members of the Commission shall constitute a quorum for the transaction of business.

(4)(A) The Commission shall meet at the call of the Chairman, or at the call of a majority of the members of the Commission.

(B) The Commission shall meet not less than 4 times during the period beginning with the date of the enactment of this section and ending with September 30, 1990.[1]

(5) Decisions of the Commission shall be according to the vote of a simple majority of those present and voting at a properly called meeting.

(6) Members of the Commission shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Commission.

(f)(1) The Commission shall appoint an Executive Director of the Commission. In addition to the Executive Director, the Commission may appoint and fix the compensation of such personnel as it deems advisable. Such appointments and compensation may be made without regard to the provisions of title 5, United States Code, that govern appointments in the competitive services, and the provisions of chapter 51 and subchapter III of chapter 53 of such title that relate to classifications and the General Schedule pay rates.

(2) The Commission may procure such temporary and intermittent services of consultants under section 3109(b) of title 5, United States Code, as the Commission determines to be necessary to carry out the duties of the Commission.

(g) In carrying out its duties, the Commission, or any duly organized committee thereof, is authorized to hold such hearings, sit and act at such times and places, and take such testimony, with respect to matters for which it has a responsibility under this section, as the Commission or committee may deem advisable.

(h)(1) The Commission may secure directly from any department or agency of the United States such data and information as may be necessary to carry out its responsibilities.

(2) Upon request of the Commission, any such department or agency shall furnish any such data or information.

(i) The General Services Administration shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(j) There are authorized to be appropriated through fiscal year 1991, such sums as may be necessary to carry out this section for each of fiscal years 1989 and 1990.

(k)(1) The Commission is authorized to accept donations of money, property, or personal services. Funds received from donations shall be deposited in the Treasury in a separate fund created for this purpose. Funds appropriated for the Commission and donated funds may be expended for such purposes as official reception and representation expenses, public surveys, public service announcements, preparation of special papers, analyses, and documentaries, and for such other purposes as determined by the Commission to be in furtherance of its mission to review national issues affecting children.

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[1] See footnote on previous page.

(2) For purposes of Federal income, estate, and gift taxation, money and other property accepted under paragraph (1) of this subsection shall be considered as a gift or bequest to or for the use of the United States.

(3) Expenditure of appropriated and donated funds shall be subject to such rules and regulations as may be adopted by the Commission and shall not be subject to Federal procurement requirements.

(l) The Commission is authorized to conduct such public surveys as it deems necessary in support of its review of national issues affecting children and, in conducting such surveys, the Commission shall not be deemed to be an "agency" for the purpose of section 3502 of title 44, United States Code.

(42 U.S.C. 1320b–9) Enacted Dec. 22, 1987, P.L. 100–203, sec. 9136, 101 Stat. 1330–316—1330–319; amended Nov. 10, 1988, P.L. 100–647, sec. 8201, 102 Stat. 3798; amended June 30, 1989, P.L. 101–45, sec. 409, 103 Stat. 130; amended Dec. 19, 1989, P.L. 101–239, sec. 6221, 103 Stat. 2255; amended Nov. 5, 1990, P.L. 101–508, secs. 4207(k)(6) and 5057, 104 Stat. 1388–125 and 1388–230.

TEMPORARY CHILD CARE FOR CHILDREN WITH DISABILITIES AND CRISIS NURSERIES ACT OF 1986

Temporary Child Care for Children With Disabilities and Crisis Nurseries Act of 1986

TITLE II—TEMPORARY CHILD CARE FOR HANDICAPPED CHILDREN AND CRISIS NURSERIES

SEC. 201 SHORT TITLE.

This title may be cited as the "Temporary Child Care for Children With Disabilities and Crisis Nurseries Act of 1986".

(42 U.S.C. 5117 note) Enacted August 27, 1986, P.L. 99–401, sec. 201, 100 Stat. 907; amended Oct. 25, 1989, P.L. 101–127, sec. 6, 103 Stat. 772.

SEC. 202. FINDINGS.

The Congress finds that it is necessary to establish demonstration programs of grants to the States to assist private and public agencies and organizations provide: (A) temporary non-medical child care for children with special needs to alleviate social, emotional, and financial stress among children and families of such children, and (B) crisis nurseries for children who are abused and neglected, at risk of abuse or neglect, or who are in families receiving child protective services.

(42 U.S.C. 5117) Enacted August 27, 1986, P.L. 99–401, sec. 202, 100 Stat. 907.

SEC. 203. TEMPORARY CHILD CARE FOR HANDICAPPED AND CHRONICALLY ILL CHILDREN.

The Secretary of Health and Human Services shall establish a demonstration program of grants to States to assist private and public agencies and organizations to provide in-home or out-of-home temporary non-medical child care for children with disabilities, and children with chronic or terminal illnesses. Such care shall be provided on a sliding fee scale with hourly and daily rates.

(42 U.S.C. 5117a) Enacted August 27, 1986, P.L. 99–401, sec. 203, 100 Stat. 907; amended Oct. 25, 1989, P.L. 101–127, sec. 2(1), 103 Stat. 770.

SEC. 204. CRISIS NURSERIES.

The Secretary of Health and Human Services shall establish a demonstration program of grants to States to assist private and public agencies and organizations to provide crisis nurseries for children who are abused and neglected, are at high risk of abuse and neglect, or who are in families receiving child protective services. Such service shall be provided without fee for a maximum of 30 days in any year. Crisis nurseries shall also provide referral to support services.

(42 U.S.C. 5117b) Enacted August 27, 1986, P.L. 99–401, sec. 204, 100 Stat. 907–908.

SEC. 205. ADMINISTRATIVE PROVISIONS.

(a) Applications.—

(1) (A) Any State which desires to receive a grant under section 203 or 204 shall submit an application to the Secretary

in such form and at such times as the Secretary may require. Such application shall—

(i) describe the proposed State program, including the services to be provided, the agencies and organizations that will provide the services, and the criteria for selection of children and families for participation in projects under the program;

(ii) contain an estimate of the cost of developing, implementing, and evaluating the State program;

(iii) set forth the plan for dissemination of the results of the projects;

(iv) specify the State agency designated to administer programs and activities assisted under this title and the plans for coordinating interagency support of the program; and

(v) with respect to State agencies described in subparagraph (B), provide documentation of a commitment by all such agencies to develop a State plan for coordination among the agencies in carrying out programs and activities provided by the State pursuant to a grant under section 203.

(B) State agencies referred to in subparagraph (A)(v) are State agencies responsible for providing services to children with disabilities or with chronic or terminal illnesses, or responsible for financing services for such children, or both, including State agencies responsible for carrying out State programs that—

(i) receive Federal financial assistance; and

(ii) relate to social services, maternal and child health, comprehensive health and mental health, medical assistance and infants, or toddlers and families.

(2) Such application shall contain assurance that—

(A) not more than 5 percent of funds made available under this title will be used for State administrative costs;

(B) projects will be of sufficient size, scope, and quality to achieve the objectives of the program;

(C) in the distribution of funds made available under section 203, a State will give priority consideration to agencies and organizations with experience in working with children with disabilities, with chronically ill children, and with the families of such children, and which serve communities with the greatest need for such services;

(D) in the distribution of funds made available under section 204, the State will give priority consideration to agencies and organizations with experience in working with abused or neglected children and their families, and with children at high risk of abuse and neglect and their families, and which serve communities which demonstrate the greatest need for such services; and

(E) Federal funds made available under this title will be so used as to supplement and, to the extent practicable, increase the amount of State and local funds that would in the absence of such Federal funds be made available for the uses specified in this title, and in no case supplant such State or local funds.

(b) Award of Grants.—

(1) In reviewing applications for grants under this title, the Secretary shall consider, among other factors, the equitable geographical distribution of grants.

(2) In the award of temporary non-medical child care demonstration grants under section 203, the Secretary shall give a preference to States in which such care is unavailable.

(3) Of the funds appropriated under section 206, one-half shall be available for grants under section 203 and one-half shall be available for grants under section 204.

(c) Evaluations.—States receiving grants under this title, shall annually submit a report to the Secretary evaluating funded programs. Such report shall include—

(1)(A) information concerning costs, the number of participants, impact on family stability, the incidence of abuse and neglect, the types, amounts, and costs of various services provided, demographic data on recipients of services, and such other information as the Secretary may require; and

(B) with respect to services provided by the States pursuant to section 203, information concerning the number of families receiving services and documentation of parental satisfaction with the services provided;

(2) a specification of the amount and source of public funds, and of private funds, expended in the State for temporary child care for children with disabilities or with chronic or terminal illnesses; and

(3) a State strategy for expanding the availability in the State of temporary child care, and other family support, for families of children with disabilities or with chronic or terminal illnesses, which strategy specifies the manner in which the State intends to expend any Federal financial assistance available to the State for such purpose, including any such assistance provided to the State for programs described in section 205(a)(1)(B).

(d) Definitions.—For the purposes of this title—

(1) the term "Secretary" means the Secretary of Health and Human Services;

(2) the term "children with disabilities" has the meaning given such term in section 602(a)(1) of the Individuals with Disabilities Education Act;

(3) the term "crisis nursery" means a center providing temporary emergency services and care for children;

(4) the term "non-medical child care" means the provision of care to provide temporary relief for the primary caregiver; and

(5) the term "State" means any of the several States, the District of Columbia, the Virgin Islands of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, or Palau.

(42 U.S.C. 5117c) Enacted August 27, 1986, P.L. 99–401, sec. 205, 100 Stat. 908–909; amended Oct. 25, 1989, P.L. 101–127, secs. 2(2), 3 and 4, 103 Stat. 770–771; amended October 30, 1990, P.L. 101–476, sec. 901(a)(3), (g), 104 Stat. 1142, 1151; amended May 28, 1992, P.L. 102–295, sec. 202, 106 Stat. 200.

SEC. 206. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for the purposes of this title such sums as may be necessary for each of the fiscal years 1987, 1988, and 1989, $20,000,000 for each of the fiscal years 1990 and 1991, and $20,000,000 for each of the fiscal years 1992 through 1995. Amounts appropriated under the preceding sentence shall remain available until expended.

(42 U.S.C. 5117d) Enacted August 27, 1986, P.L. 99–401, sec. 206, 100 Stat. 909; amended August 19, 1988, P.L. 100–403, sec. 1, 102 Stat. 1013; amended Oct. 25, 1989, P.L. 101–127, sec. 5, 103 Stat. 771; amended May 28, 1992, P.L. 102–295, sec. 203, 106 Stat. 200.

SEC. 207. EFFECTIVE DATE.

This title shall take effect October 1, 1986.

(42 U.S.C. 5117 note) Enacted August 27, 1986, P.L. 99–401, sec. 207, 100 Stat. 909.

ABANDONED INFANTS ASSISTANCE ACT OF 1988

ABANDONED INFANTS ASSISTANCE ACT OF 1988[1]

AN ACT To authorize the Secretary of Health and Human Services to make grants for demonstration projects for foster care and residential care of infants and young children abandoned in hospitals, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Abandoned Infants Assistance Act of 1988".

(42 U.S.C. 670 note) Enacted October 18, 1988, P.L. 100–105, sec. 1, 102 Stat. 2533.

SEC. 2. FINDINGS.

The Congress finds that—

(1) throughout the Nation, the number of infants and young children who have been exposed to drugs taken by their mothers during pregnancy has increased dramatically;

(2) the inability of parents who abuse drugs to provide adequate care for such infants and young children and a lack of suitable shelter homes for such infants and young children have led to the abandonment of such infants and young children in hospitals for extended periods;

(3) an unacceptable number of these infants and young children will be medically cleared for discharge, yet remain in hospitals as boarder babies;

(4) hospital-based child care for these infants and young children is extremely costly and deprives them of an adequate nurturing environment;

(5) training is inadequate for foster care personnel working with medically fragile infants and young children and infants and young children exposed to drugs;

(6) a particularly devastating development is the increase in the number of infants and young children who are infected with the human immunodeficiency virus (which is believed to cause acquired immune deficiency syndrome and which is commonly known as HIV) or who have been perinatally exposed to the virus or to a dangerous drug;

(7) many such infants and young children have at least one parent who is an intravenous drug abuser;

(8) such infants and young children are particularly difficult to place in foster homes, and are being abandoned in hos-

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[1] Section 216 of Public Law 100–203 (102 Stat. 1329–275) and section 213 of Public Law 100–436 (102 Stat. 1700) each provide that the relevant funds available to the Department of Health and Human Services "for activities related to acquired immune deficiency syndrome (AIDS) may be transferred between appropriation accounts upon the approval by the House and Senate Committees on Appropriations of a transfer request submitted by the Secretary of Health and Human Services.".

pitals in increasing numbers by mothers dying of acquired immune deficiency syndrome, or by parents incapable of providing adequate care;

(9) there is a need for comprehensive services for such infants and young children, including foster family care services, case management services, family support services, respite and crisis intervention services, counseling services, and group residential home services;

(10) there is a need to support the families of such infants and young children through the provision of services that will prevent the abandonment of the infants and children; and

(11) there is a need for the development of funding strategies that coordinate and make the optimal use of all private resources, and Federal, State, and local resources, to establish and maintain such services.

(42 U.S.C. 670 note) Enacted October 18, 1988, P.L. 100–105, sec. 2, 102 Stat. 2533–2534; amended December 12, 1991, P.L. 102–236, sec. 2, 105 Stat. 1812.

TITLE I—PROJECTS REGARDING ABANDONMENT OF INFANTS AND YOUNG CHILDREN IN HOSPITALS

Sec. 101. ESTABLISHMENT OF PROGRAM OF DEMONSTRATION PROJECTS.

(a) IN GENERAL.—The Secretary of Health and Human Services may make grants to public and nonprofit private entities for the purpose of developing, implementing, and operating projects to demonstrate methods—

(1) to prevent the abandonment of infants and young children, including the provision of services to members of the natural family for any condition that increases the probability of abandonment of an infant or young child;

(2) to identify and address the needs of abandoned infants and young children;

(3) to assist abandoned infants and young children to reside with their natural families or in foster care, as appropriate;

(4) to recruit, train, and retain foster families for abandoned infants and young children;

(5) to carry out residential care programs for abandoned infants and young children who are unable to reside with their families or to be placed in foster care;

(6) to carry out programs of respite care for families and foster families of infants and young children described in subsection (b);

(7) to recruit and train health and social services personnel to work with families, foster care families, and residential care programs for abandoned infants and young children; and

(8) to prevent the abandonment of infants and young children, and to care for the infants and young children who have been abandoned, through model programs providing health, educational, and social services at a single site in a geographic

area in which a significant number of infants and young children described in subsection (b) reside (with special consideration given to applications from entities that will provide the services of the project through community-based organizations).

(b) PRIORITY IN PROVISION OF SERVICES.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees that, in carrying out the purpose described in subsection (a) (other than with respect to paragraph (6) of such subsection), the applicant will give priority to abandoned infants and young children—

(1) who are infected with the human immunodeficiency virus or who have been perinatally exposed to the virus; or

(2) who have been perinatally exposed to a dangerous drug.

(c) CASE PLAN WITH RESPECT TO FOSTER CARE.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees that, if the applicant expends the grant to carry out any program of providing care to infants and young children in foster homes or in other nonmedical residential settings away from their parents, the applicant will ensure that—

(1) a case plan of the type described in paragraph (1) of section 475 of the Social Security Act is developed for each such infant and young child (to the extent that such infant and young child is not otherwise covered by such a plan); and

(2) the program includes a case review system of the type described in paragraph (5) of such section (covering each such infant and young child who is not otherwise subject to such a system).

(d) ADMINISTRATION OF GRANT.—

(1) The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees—

(A) to use the funds provided under this section only for the purposes specified in the application submitted to, and approved by, the Secretary pursuant to subsection (e);

(B) to establish such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement and accounting of Federal funds paid to the applicant under this section;

(C) to report to the Secretary annually on the utilization, cost, and outcome of activities conducted, and services furnished, under this section; and

(D) that if, during the majority of the 180-day period preceding the date of the enactment of this Act, the applicant has carried out any program with respect to the care of abandoned infants and young children, the applicant will expend the grant only for the purpose of significantly expanding, in accordance with subsection (a), activities under such program above the level provided under such program during the majority of such period.

(2) Subject to the availability of amounts made available in appropriations Acts for the fiscal year involved, the duration of a grant under subsection (a) shall be for a period of 3 years, except that the Secretary—

(A) may terminate the grant if the Secretary determines that the entity involved has substantially failed to comply with the agreements required as a condition of the provision of the grant; and

(B) shall continue the grant for one additional year if the Secretary determines that the entity has satisfactorily complied with such agreements.

(e) REQUIREMENT OF APPLICATION.—The Secretary may not make a grant under subsection (a) unless—

(1) an application for the grant is submitted to the Secretary;

(2) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary; and

(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

(f) TECHNICAL ASSISTANCE TO GRANTEES.—The Secretary may, without charge to any grantee under subsection (a), provide technical assistance (including training) with respect to the planning, development, and operation of projects described in such subsection. The Secretary may provide such technical assistance directly, through contracts, or through grants.

(g) TECHNICAL ASSISTANCE WITH RESPECT TO PROCESS OF APPLYING FOR GRANT.—The Secretary may provide technical assistance (including training) to public and nonprofit private entities with respect to the process of applying to the Secretary for a grant under subsection (a). The Secretary may provide such technical assistance directly, through contracts, or through grants.

(42 U.S.C. 670 note) Enacted October 18, 1988, P.L. 100–505, sec. 101, 102 Stat. 2534–2535; amended December 12, 1991, P.L. 102–236, sec. 3, 105 Stat. 1812.

SEC. 102. EVALUATIONS, STUDIES, AND REPORTS BY SECRETARY.

(a) EVALUATIONS OF DEMONSTRATION PROJECTS.—The Secretary shall, directly or through contracts with public and nonprofit private entities, provide for evaluations of projects carried out under section 101 and for the dissemination of information developed as result of such projects.

(b) DISSEMINATION OF INFORMATION TO INDIVIDUALS WITH SPECIAL NEEDS.—

(1)(A) The Secretary may enter into contracts or cooperative agreements with public or nonprofit private entities for the development and operation of model projects to disseminate the information described in subparagraph (B) to individuals who are disproportionately at risk of dysfunctional behaviors that lead to the abandonment of infants or young children.

(B) The information referred to in subparagraph (A) is information on the availability to individuals described in such subparagraph, and the families of the individuals, of financial assistance and services under Federal, State, local, and private programs providing health services, mental health services, educational services, housing services, social services, or other appropriate services.

(2) The Secretary may not provide a contract or cooperative agreement under paragraph (1) to an entity unless—

(A) the entity has demonstrated expertise in the functions with respect to which such financial assistance is to be provided; and

(B) the entity agrees that in disseminating information on programs described in such paragraph, the entity will give priority—

(i) to providing the information to individuals described in such paragraph who—

(I) engage in the abuse of alcohol or drugs, who are infected with the human immunodeficiency virus, or who have limited proficiency in speaking the English language; or

(II) have been historically underserved in the provision of the information; and

(ii) to providing information on programs that are operated in the geographic area in which the individuals involved reside and that will assist in eliminating or reducing the extent of behaviors described in such paragraph.

(3) In providing contracts and cooperative agreements under paragraph (1), the Secretary may not provide more than 1 such contract or agreement with respect to any geographic area.

(4) Subject to the availability of amounts made available in appropriations Acts for the fiscal year involved, the duration of a contract or cooperative agreement under paragraph (1) shall be for a period of 3 years, except that the Secretary may terminate such financial assistance if the Secretary determines that the entity involved has substantially failed to comply with the agreements required as a condition of the provision of the assistance.

(c) STUDY AND REPORT ON NUMBER OF ABANDONED INFANTS AND YOUNG CHILDREN.—

(1) The Secretary shall conduct a study for the purpose of determining—

(A) an estimate of the number of infants and young children abandoned in hospitals in the United States and the number of such infants and young children who are infants and young children described in section 101(b); and

(B) an estimate of the annual costs incurred by the Federal Government and by State and local governments in providing housing and care for such infants and young children.

(2) Not later than April 1, 1992, the Secretary shall complete the study required in paragraph (1) and submit to the Congress a report describing the findings made as a result of the study.

(d) STUDY AND REPORT ON EFFECTIVE CARE METHODS.—

(1) The Secretary shall conduct a study for the purpose of determining the most effective methods for responding to the needs of abandoned infants and young children.

(2) *The Secretary shall, not later than April 1, 1991, complete* the study required in paragraph (1) and submit to the Congress a report describing the findings made as a result of the study.

(42 U.S.C. 670 note) Enacted October 18, 1988, P.L. 100–105, sec. 102, 102 Stat. 2535–2536; amended December 12, 1991, P.L. 102–236, sec. 4, 105 Stat. 1814.

SEC. 103. DEFINITIONS.

For purposes of this title:

(1) The terms "abandoned" and "abandonment", with respect to infants and young children, mean that the infants and young children are medically cleared for discharge from acute-care hospital settings, but remain hospitalized because of a lack of appropriate out-of-hospital placement alternatives.

(2) The term "dangerous drug" means a controlled substance, as defined in section 102 of the Controlled Substances Act.

(3) The term "natural family" shall be broadly interpreted to include natural parents, grandparents, family members, guardians, children residing in the household, and individuals residing in the household on a continuing basis who are in a care-giving situation with respect to infants and young children covered under this Act.

(42 U.S.C. 670 note) Enacted October 18, 1988, P.L. 100–105, sec. 103, 102 Stat. 2536; amended December 12, 1991, P.L. 102–236, sec. 5, 105 Stat. 1815.

SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—

(1) For the purpose of carrying out this title (other than section 102(b)), there are authorized to be appropriated $20,000,000 for fiscal year 1992, $25,000,000 for fiscal year 1993, $30,000,000 for fiscal year 1994, and $35,000,000 for fiscal year 1995.

(2)(A) Of the amounts appropriated under paragraph (1) for any fiscal year in excess of the amount appropriated under this subsection for fiscal year 1991, as adjusted in accordance with subparagraph (B), the Secretary shall make available not less than 50 percent for grants under section 101(a) to carry out projects described in paragraph (8) of such section.

(B) For purposes of subparagraph (A), the amount relating to fiscal year 1991 shall be adjusted for a fiscal year to a greater amount to the extent necessary to reflect the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with March of the preceding fiscal year.

(3) Not more than 5 percent of the amounts appropriate under paragraph (1) for any fiscal year may be obligated for carrying out section 102(a).

(b) DISSEMINATION OF INFORMATION FOR INDIVIDUALS WITH SPECIAL NEEDS.—For the purpose of carrying out section 102(b), there is authorized to be appropriated $5,000,000 for each of the fiscal years 1992 through 1995.

(c) ADMINISTRATIVE EXPENSES.—

(1) For the purpose of the administration of this title by the Secretary, there is authorized to be appropriated for each

fiscal year specified in subsection (a)(1) an amount equal to 5 percent of the amount authorized in such subsection to be appropriated for the fiscal year. With respect to the amounts appropriated under such subsection, the preceding sentence may not be construed to prohibit the expenditure of the amounts for the purpose described in such sentence.

(2) The Secretary may not obligate any of the amounts appropriated under paragraph (1) for a fiscal year unless, from the amounts appropriated under subsection (a)(1) for the fiscal year, the Secretary has obligated for the purpose described in such paragraph an amount equal to the amounts obligated by the Secretary for such purpose in fiscal year 1991.

(d) AVAILABILITY OF FUNDS.—Amounts appropriated under this section shall remain available until expended.

(42 U.S.C. 670 note) Enacted October 18, 1988, P.L. 100–105, sec. 104, 102 Stat. 2536; amended December 12, 1991, P.L. 102–236, sec. 6, 105 Stat. 1815.

TITLE II—MEDICAL COSTS OF TREATMENT WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME

SEC. 201. STUDY AND REPORT ON ASSISTANCE.

(a) STUDY.—The Secretary shall conduct a study for the purpose of—

(1) determining cost-effective methods for providing assistance to individuals for the medical costs of treatment of conditions arising from infection with the etiologic agent for acquired immune deficiency syndrome, including determining the feasibility of risk-pool health insurance for individuals at risk of such infection;

(2) determining the extent to which Federal payments under title XIX of the Social Security Act are being expended for medical costs described in paragraph (1); and

(3) providing an estimate of the extent to which such Federal payments will be expended for such medical costs during the 5-year period beginning on the date of the enactment of this Act.

(b) REPORT.—The Secretary shall, not later than 12 months after the date of the enactment of this Act, complete the study required in subsection (a) and submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings made as a result of the study.

(42 U.S.C. 670 note) Enacted October 18, 1988, P.L. 100–105, sec. 201, 102 Stat. 2536.

TITLE III—GENERAL PROVISIONS

SEC. 301. DEFINITIONS.

For purposes of this Act:

(1) The term "acquired immune deficiency syndrome" includes infection with the etiologic agent for such syndrome, any

condition indicating that an individual is infected with such etiologic agent, and any condition arising from such etiologic agent.

(2) The term "Secretary" means the Secretary of Health and Human Services.

(42 U.S.C. 670 note) Enacted October 18, 1988, P.L. 100-105, sec. 301, 102 Stat. 2537.

SECTION 5051 OF THE ANTI-DRUG ABUSE ACT OF 1988

SECTION 5051 OF THE ANTI-DRUG ABUSE ACT OF 1988

SUBTITLE B—NATIONAL COMMISSION ON DRUG-FREE SCHOOLS

SEC. 5051. NATIONAL COMMISSION ON DRUG-FREE SCHOOLS.

(a) ESTABLISHMENT OF COMMISSION.—There is established a National Commission on Drug-Free Schools (hereinafter referred to as the "Commission").

(b) MEMBERSHIP OF THE COMMISSION.—(1) The Commission shall consist of the following 26 members:

(A) The Secretary of Education (hereinafter referred to as the "Secretary").

(B) The Director of National Drug Control Policy (hereinafter referred to as the "Director").

(C) Sixteen individuals appointed by the Secretary and the Director.

(D) Four members of the House of Representatives, of which 2 members shall be appointed by the Speaker of the House of Representatives and 2 members shall be appointed by the Minority Leader of the House of Representatives.

(E) Four members of the Senate, of which 2 members shall be appointed by the Majority Leader of the Senate and 2 members shall be appointed by the Minority Leader of the Senate.

(2) The Secretary and the Director shall cochair the Commission.

(3) The members of the Commission appointed under paragraph (1)(C) shall consist of—

(A) experts in the fields of drug abuse prevention and education;

(B) representatives of State and local school authorities;

(C) representatives of parent-teacher associations;

(D) representatives of national education organizations;

(E) representatives of community groups with demonstrated records in drug abuse and prevention education;

(F) representatives of law enforcement officials; and

(G) other appropriate individuals as determined by the Secretary and the Director.

(c) APPOINTMENTS.—Members shall be appointed to the Commission not later than 30 days after the date of the enactment of this Act.

(d) VACANCIES.—A vacancy in the Commission shall be filled in the same manner as the original appointment was made. A vacancy in the Commission shall not affect the powers of the Commission.

(e) QUORUM.—Fourteen members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(f) DUTIES OF THE COMMISSION.—The Commission shall—

(1) develop recommendations of criteria for identifying drug-free schools and campuses;

(2) develop recommendations for identifying model programs to meet such criteria;

(3) make such other findings, recommendations, and proposals as the Commission deems necessary to carry out the provisions of this section; and

(4) prepare and submit a final report pursuant to subsection (i).

(g) COMPENSATION.—(1) Each member of the Commission who is not an officer or employee of the United States shall be compensated at a rate established by the Commission not to exceed the daily equivalent of the annual rate of basic pay prescribed for grade GS–18 of the General Schedule under section 5332 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the actual performance of duties as a member of the Commission. Each member of the Commission who is an officer or employee of the United States shall receive no additional compensation for service on the Commission.

(2) While away from their homes or regular places of business in the performance of duties for the Commission, all members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at a rate established by the Commission not to exceed the rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(h) ADMINISTRATIVE PROVISIONS.—(1) The Commission shall appoint an Executive Director who shall be compensated at a rate established by the Commission not to exceed the rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) With the approval of the Commission, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission.

(3) Subject to such rules as may be issued by the Commission, the cochairmen may procure temporary and intermittent services of experts and consultants.

(4) Upon request of the cochairmen of the Commission, the head of any Federal department, agency, or instrumentality shall make any of the facilities and services of such department, agency, or instrumentality available to the Commission and detail any of the personnel of such department, agency, or instrumentality to the Commission, on a nonreimbursable basis, to assist the Commission in carrying out its duties under this section.

(5) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(6) Service of an individual as a member of the Commission, or employment of an individual by the Commission as an attorney or expert in any business or professional field, on a part-time or full-time basis, with or without compensation, shall not be considered as service or employment bringing such individual within the provisions of any Federal law relating to conflicts of interest or otherwise imposing restrictions, requirements, or penalties in relation

to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with claims, proceedings, or matters involving the United States. Service as a member of the Commission, or as an employee of the Commission, shall not be considered service in an appointive or elective position in the Government for purposes of section 8344 of title 5, United States Code, or comparable provisions of Federal law.

(i) REPORT OF COMMISSION.—The Commission shall report the findings and recommendations determined under subsection (f)(3) as well as proposals for any legislative action necessary to implement the recommendations of the Commission to the President and the Congress not later than 1 year after the date of the enactment of this Act. The final report of the Commission shall include—

(1) recommended criteria for schools to meet to be considered drug-free, which may include, but shall not be limited to—

(A) guidelines for the establishment of a drug education program for all students in grades kindergarten through 12;

(B) a code of student conduct;

(C) referral to treatment for students found to be using drugs; and

(D) coordinated programs for drug use prevention involving parents, teachers, counselors, local law enforcement personnel, businesses, and community organizations;

(2) a discussion of such issues as—

(A) the proper relationship among schools, parents or guardians, and law enforcement officials;

(B) what corrective measures should be imposed on students found to be using drugs;

(C) whether the suspension of eligibility for student assistance under title IV of the Higher Education Act upon conviction of a drug-related offense is a deterrent to drug use;

(D) any other measured response the Commission deems appropriate; and

(E) the potential effects of measured responses described in this paragraph on civil liberties, educational programs, nondrug-using students, and family relationships;

(3) a description of the assistance required by local school districts to establish drug-free schools and the manner in which local, State and Federal Government may provide such assistance; and

(4) a description of the feasibility of certain programs designed to enhance and raise self-esteem, self-confidence, independence, and responsibility among students.

(j) POWERS OF COMMISSION.—(1) For the purpose of carrying out this section, the Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(2) Any member or employee of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this subsection.

(3) The Commission may secure directly from any Federal agency such information as may be necessary to enable the Commission to carry out this Act. Upon request of the cochairmen of the Commission, the head of such agency shall furnish such information to the Commission.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. Such sums shall remain available until expended. Any new spending authority (within the meaning of section 401 of the Congressional Budget Act of 1974) which is provided under this section shall be effective for any fiscal year only to the extent or in such amounts as are provided in appropriation Acts.

(20 U.S.C. 3172 note) Enacted Nov. 18, 1988, P.L. 100–690, sec. 5051, 102 Stat. 4297–4299.

TECHNOLOGY-RELATED ASSISTANCE FOR INDIVIDUALS WITH DISABILITIES ACT OF 1988

Technology-Related Assistance for Individuals with Disabilities Act of 1988

AN ACT To establish a program of grants to States to promote the provision of technology-related assistance to individuals with disabilities, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Technology-Related Assistance for Individuals With Disabilities Act of 1988".

(29 U.S.C. 2201 note)

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress makes the following findings:

(1) During the past decade, there have been major advances in modern technology. Technology is now a powerful force in the lives of most residents of the United States.

(2) For all individuals, technology can provide important tools for making the performance of tasks quicker and easier.

(3) For some individuals with disabilities, assistive technology is a necessity that enables them to engage in or perform many tasks. The provision of assistive technology devices and assistive technology services enables some individuals with disabilities to—

(A) have greater control over their own lives;

(B) participate in and contribute more fully to activities in their home, school, and work environments, and in their communities;

(C) interact to a greater extent with nondisabled individuals; and

(D) otherwise benefit from opportunities that are taken for granted by individuals who do not have disabilities.

(4) Although the development of assistive technology devices designed to assist individuals with disabilities is still in its early stages, there already exist a substantial number of assistive technology devices, including simple adaptations to existing equipment, that could significantly benefit, in all major life activities, individuals of all ages with disabilities. Such devices, including adaptations, could be used in programs and activities such as early intervention, education, rehabilitation and training, employment, residential living, independent living, recreation, and other aspects of daily living.

(5) The use of assistive technology devices and services by individuals with disabilities can reduce the costs of the disabilities to society, individuals with disabilities, and families of individuals with disabilities by reducing expenditures associated

with early intervention, education, rehabilitation, health care, transportation, telecommunication services, and other services required by individuals with disabilities.

(6) Many individuals with disabilities do not have access to the assistive technology devices and assistive technology services that such individuals need to allow such individuals to function in society commensurate with their abilities. States do not have comprehensive programs for making available technology-related assistance to individuals with disabilities. There is a lack of—

(A) resources to pay for such devices and services;

(B) trained personnel to provide such devices and services and to assist individuals with disabilities to use such devices and services;

(C) information about the potential of technology available to individuals with disabilities, the families or representatives of individuals with disabilities, individuals who work for public agencies and private entities that have contact with individuals with disabilities (including insurers), employers, and other appropriate individuals;

(D) coordination among existing State human services programs, and among such programs and private agencies, particularly with respect to transitions between such programs and agencies; and

(E) capacity of such programs to provide the necessary technology-related assistance.

(7) There are insufficient incentives for the commercial pursuit of the application of technology devices to meet the needs of individuals with disabilities, because of limited markets.

(8) At the Federal level, there is a lack of coordination among agencies that provide or pay for the provision of assistive technology devices and assistive technology services. Also, the Federal Government does not provide adequate assistance and information with respect to the use of assistive technology devices and assistive technology services to individuals with disabilities, the families or representatives of individuals with disabilities, individuals who work for public agencies and private entities that have contact with individuals with disabilities (including insurers), employers, and other appropriate individuals.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To provide financial assistance to the States to help each State to develop and implement a consumer-responsive statewide program of technology-related assistance for individuals of all ages with disabilities that is designed to—

(A) increase awareness of the needs of individuals with disabilities for assistive technology devices and assistive technology services;

(B) increase awareness of policies, practices, and procedures that facilitate or impede the availability or provision of assistive technology devices and assistive technology services;

(C) increase the availability of and funding for the provision of assistive technology devices and assistive technology services for individuals with disabilities;

(D) increase awareness and knowledge of the efficacy of assistive technology devices and assistive technology services among individuals with disabilities, the families or representatives of individuals with disabilities, individuals who work for public agencies and private entities that have contact with individuals with disabilities (including insurers), employers, and other appropriate individuals;

(E) increase the capacity of public and private entities to provide technology-related assistance, particularly assistive technology devices and assistive technology services, and to pay for the provision of assistive technology devices and assistive technology services;

(F) increase coordination among State agencies and public and private entities that provide technology-related assistance, particularly assistive technology devices and assistive technology services; and

(G) increase the probability that individuals of all ages with disabilities will, to the extent appropriate, be able to secure and maintain possession of assistive technology devices as such individuals make the transition between services offered by human service agencies or between settings of daily living.

(2) To facilitate—

(A) the identification of Federal policies that facilitate payment for assistive technology devices and assistive technology services for individuals with disabilities;

(B) the identification of Federal policies that impede such payment; and

(C) the elimination of inappropriate barriers to such payment.

(3) To enhance the ability of the Federal Government to provide the States with—

(A) technical assistance, information, and training and public awareness programs relating to the provision of assistive technology devices and assistive technology services; and

(B) funding for model demonstration and innovation projects.

(29 U.S.C. 2201)

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) ASSISTIVE TECHNOLOGY DEVICE.—The term "assistive technology device" means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.

(2) ASSISTIVE TECHNOLOGY SERVICE.—The term "assistive technology service" means any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device. Such term includes—

(A) the evaluation of the needs of an individual with a disability, including a functional evaluation of the individual in the individual's customary environment;

(B) purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by individuals with disabilities;

(C) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing of assistive technology devices;

(D) coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

(E) training or technical assistance for an individual with disabilities, or, where appropriate, the family of an individual with disabilities; and

(F) training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of individuals with disabilities.

(3) INDIVIDUAL WITH DISABILITIES.—The term "individual with disabilities" means any individual—

(A) who is considered to have a disability or handicap for the purposes of any Federal law other than this Act or for the purposes of the law of the State in which the individual resides; and

(B) who is or would be enabled by assistive technology devices or assistive technology services to maintain a level of functioning or to achieve a greater level of functioning in any major life activity.

(4) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given such term in section 435(b)[1] of the Higher Education Act of 1965, and includes community colleges receiving funding under the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801 et seq.).

(5) SECRETARY.—The term "Secretary" means the Secretary of Education.

(6) STATE.—Except as otherwise provided, the term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(7) TECHNOLOGY-RELATED ASSISTANCE.—The term "technology-related assistance" means functions performed and activities carried out under section 101 that accomplish the purposes described in section 2(b)(1).

(8) UNDERSERVED GROUP.—The term "underserved group" means any group of individuals with disabilities who, because of disability, place of residence, geographic location, age, race,

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[1] Reference to 435(b) probably should be to section 481(a) of the Higher Education Act of 1965. See section 427(b) of the Higher Education Amendments of 1992 (P.L. 102-325; 106 Stat. 549).

sex, or socioeconomic status, have not historically sought, been eligible for, or received technology-related assistance.

(29 U.S.C. 2202)

TITLE I—GRANTS TO STATES

SEC. 101. PROGRAM AUTHORIZED.

(a) GRANTS TO STATES.—The Secretary of Education shall make grants to States in accordance with the provisions of this title to assist States to develop and implement consumer-responsive comprehensive statewide programs of technology-related assistance that accomplish the purposes described in section 2(b)(1).

(b) FUNCTIONS OF PROGRAMS.—Any State that receives a grant under this title may accomplish the purposes described in section 2(b)(1) by carrying out any of the following functions:

(1) IDENTIFICATION AND NEEDS ASSESSMENT.—Identification of individuals with disabilities (including individuals from underserved groups) who reside in the State and the conduct of an ongoing evaluation of the needs of such individuals for technology-related assistance, which may be based on existing data.

(2) IDENTIFICATION AND COORDINATION OF RESOURCES.—Identification and coordination of Federal and State policies, resources, and services relating to the provision of assistive technology devices and assistive technology services to individuals with disabilities, including entering into interagency agreements.

(3) PROVISION OF ASSISTIVE TECHNOLOGY DEVICES AND ASSISTIVE TECHNOLOGY SERVICES.—Provision of assistive technology devices and assistive technology services to individuals with disabilities and payment for the provision of assistive technology devices and assistive technology services.

(4) DISSEMINATION OF INFORMATION.—Dissemination of information relating to technology-related assistance and sources of funding for assistive technology devices and assistive technology services to individuals with disabilities, the families or representatives of individuals with disabilities, individuals who work for public agencies and private entities that have contact with individuals with disabilities (including insurers), employers, and other appropriate individuals.

(5) TRAINING AND TECHNICAL ASSISTANCE.—Provision of training and technical assistance relating to assistive technology devices and assistive technology services to individuals with disabilities, the families or representatives of individuals with disabilities, individuals who work for public agencies and private entities that have contact with individuals with disabilities (including insurers), employers, and other appropriate individuals.

(6) PUBLIC AWARENESS PROGRAM.—Conduct of a public awareness program focusing on the efficacy and availability of assistive technology devices and assistive technology services for individuals with disabilities.

(7) ASSISTANCE TO STATEWIDE AND COMMUNITY-BASED ORGANIZATIONS.—Provision of assistance to statewide and community-based organizations or systems that provide assistive technology services to individuals with disabilities.

(8) PARTNERSHIPS AND COOPERATIVE INITIATIVES.—Support of the establishment or continuation of partnerships and cooperative initiatives between the public sector and the private sector to facilitate the development and implementation of a statewide program of technology-related assistance for individuals with disabilities.

(9) QUALIFICATIONS OF STAFF.—Taking actions to develop standards, or where appropriate, apply existing standards to ensure the availability of qualified personnel.

(10) PROGRAM DATA.—Compilation and evaluation of appropriate data relating to the program.

(11) PROCEDURES FOR INVOLVEMENT OF CONCERNED INDIVIDUALS.—The establishment of procedures providing for the active involvement of individuals with disabilities, the families or representatives of such individuals, and other appropriate individuals in the development and implementation of the program, and for the active involvement, to the maximum extent appropriate, of individuals with disabilities who use assistive technology devices and assistive technology services in decisions relating to such assistive technology devices and assistive technology services.

(12) OTHER FUNCTIONS.—Any other functions the Secretary considers appropriate.

(c) AUTHORIZED ACTIVITIES.—In carrying out the functions described in subsection (b), any State may use amounts made available to the State under a grant under this title for activities including the following:

(1) MODEL DELIVERY SYSTEMS.—The State may support model systems for the delivery of assistive technology devices and assistive technology services to individuals with disabilities that if successful could be replicated or made generally applicable. Any such system may include—

(A) the purchase, lease, or other acquisition of assistive technology devices and assistive technology services or payment for the provision of assistive technology devices and assistive technology services;

(B) the use of counselors, including peer counselors, to assist individuals with disabilities and the families of individuals with disabilities to obtain assistive technology devices and assistive technology services;

(C) the involvement of individuals with disabilities or, if appropriate, families or representatives of individuals with disabilities in decisions related to the provision of assistive technology devices and assistive technology services to individuals with disabilities; and

(D) the evaluation of the efficacy of the particular model delivery system involved.

(2) STATEWIDE NEEDS ASSESSMENT.—The State may conduct a statewide needs assessment, which may be based on existing data and may include—

(A) estimates of the numbers of individuals with disabilities within the State, categorized by residence, type and extent of disabilities, age, race, gender, and ethnicity;

(B) a description of efforts during the fiscal year ending before the date of the enactment of this Act to provide assistive technology devices and assistive technology services to individuals with disabilities within the State, including—

(i) the number of individuals with disabilities who received appropriate assistive technology devices and assistive technology services; and

(ii) a description of the devices and services provided;

(C) the number of individuals with disabilities who are in need of assistive technology devices and assistive technology services, and a description of the devices and services needed;

(D) the cost of providing assistive technology devices and assistive technology services to all individuals with disabilities within the State who need such devices and services;

(E) a description of State and local public resources and private resources (including insurance) that are available to establish a statewide program of technology-related assistance for individuals with disabilities;

(F) the identification of State and Federal policies that facilitate or interfere with the operation of a statewide program of technology-related assistance;

(G) a description of—

(i) alternative State-financed systems of subsidies for the provision of assistive technology devices and assistive technology services, including—

(I) a loan system for assistive technology devices;

(II) a low-interest loan fund;

(III) a revolving fund;

(IV) a loan insurance program; and

(V) a partnership with private entities for the purchase, lease, or other acquisition of assistive technology devices or the provision of assistive technology services; and

(ii) a description of the eligibility criteria for such a system;

(H) a description of the State's procurement policies and the extent to which such policies will ensure, to the extent practicable, that assistive technology devices purchased, leased, or otherwise acquired with assistance under a grant under this title are compatible with other technology devices, including technology devices designed primarily for use by individuals without disabilities, elderly individuals, or individuals with particular disabilities; and

(I) an inquiry into whether it is advantageous for either a State agency or a task force (composed of individuals representing the State and individuals representing the private sector) to study the practices of private insurance companies holding licenses within the State that offer health or disability insurance policies under which an individual may obtain reimbursement for—

(i) the purchase, lease, or other acquisition of assistive technology devices; or

(ii) the use of assistive technology services.

(3) SUPPORT GROUPS.—The State may encourage the creation or maintenance of statewide or community-based organizations or systems that assist individuals with disabilities to use assistive technology devices or assistive technology services, or support any existing organization or system that provides such assistance.

(4) PUBLIC AWARENESS PROGRAM.—The State may support a public awareness program designed to provide information relating to the availability and efficacy of assistive technology devices and assistive technology services for individuals with disabilities, the families or representatives of individuals with disabilities, individuals who work for public agencies and private entities that have contact with individuals with disabilities (including insurers), employers, and other appropriate individuals, or may establish and support such a program if no such program exists. Such a program may include—

(A) the development and dissemination of information relating to—

(i) the nature of assistive technology devices and assistive technology services;

(ii) the appropriateness, cost, and availability of, and access to assistive technology devices and assistive technology services; and

(iii) the efficacy of assistive technology devices and assistive technology services with respect to enhancing the capacity of individuals with disabilities;

(B) procedures for providing direct communication between public providers of assistive technology devices and assistive technology services and private providers of such devices and services (including employers); and

(C) the development and dissemination of information relating to—

(i) use of the program by individuals with disabilities, families or representatives of individuals with disabilities, and professionals who work in the field of technology-related assistance, and other appropriate individuals; and

(ii) the nature of the inquiries made by the individuals described in clause (i).

(5) TRAINING AND TECHNICAL ASSISTANCE.—The State may provide directly or support public or private training and technical assistance activities relating to the use of assistive technology devices and assistive technology services to individuals with disabilities, the families or representatives of individuals with disabilities, individuals who work for public agencies and private entities that have contact with individuals with disabil-

ities (including insurers), employers, and other appropriate individuals.

(6) ACCESS TO TECHNOLOGY-RELATED INFORMATION.—The State may develop, operate, or expand a system for public access to information concerning technology-related assistance, including information about assistive technology devices and assistive technology services, funding sources, costs, and individuals, organizations, and agencies capable of providing technology-related assistance to individuals with disabilities. In developing, operating, or expanding a system described in the preceding sentence, the State may—

(A) develop, compile, and categorize print, braille, audio, and video materials containing the information described in such sentence;

(B) identify and classify existing funding sources, conditions of and criteria for access to such sources, including any funding mechanisms or strategies developed by the State;

(C) identify existing support groups and systems designed to help individuals with disabilities make effective use of technology-related assistance; and

(D) maintain a record of the extent to which citizens of the State use or make inquiries of the system established under this paragraph, and of the nature of such inquiries.

(7) INTERSTATE AGREEMENTS.—The State may enter into cooperative agreements with other States to expand the capacity of the States involved to assist individuals of all ages with disabilities to learn about, acquire, use, maintain, adapt, and upgrade assistive technology devices and assistive technology services that such individuals need at home, school, work, or in other environments that are part of daily living.

(8) OTHER ACTIVITIES.—The State may utilize amounts made available under grants made under this title for any other activities necessary for developing, implementing, or evaluating the statewide program of technology-related assistance.

(29 U.S.C. 2211)

SEC. 102. DEVELOPMENT GRANTS.

(a) GENERAL AUTHORITY.—The Secretary shall award to States 3-year grants to assist States to develop and implement statewide programs of technology-related assistance for individuals with disabilities in accordance with the provisions of section 101.

(b) NUMBER OF GRANTS TO BE AWARDED.—From amounts appropriated under section 106, the Secretary shall award under this section, to the extent appropriate applications are submitted—

(1) in the first fiscal year for which amounts are appropriated, not more than 10 grants on a competitive basis;

(2) in the second fiscal year for which amounts are appropriated, not more than 20 grants on a competitive basis; and

(3) in the third fiscal year for which amounts are appropriated, any number of grants on a competitive basis.

(c) AMOUNTS OF GRANTS.—

(1) GRANTS TO STATES.—From amounts appropriated under section 106, the Secretary shall pay to each State that receives a grant under this section—

(A) for each of the first 2 years of the grant period, an amount that is not less than $500,000 and not more than $1,000,000; and

(B) for the third year of the grant period, an amount that is not less than $500,000 and not more than $1,500,000.

(2) GRANTS TO TERRITORIES.—From amounts appropriated under section 106 for any fiscal year, the Secretary shall pay to each territory that receives a grant under this section not more than $150,000.

(3) CALCULATION OF AMOUNTS.—The Secretary shall calculate the amounts described in paragraphs (1) and (2) on the basis of—

(A) amounts available for making grants under this section;

(B) the population of the State or territory concerned; and

(C) the types of activities proposed by the State relating to the development of a statewide program of technology-related assistance.

(4) PRIORITY FOR PREVIOUSLY PARTICIPATING STATES.—Amounts appropriated for purposes of carrying out the provisions of this section in each of the 2 fiscal years succeeding the fiscal year in which amounts are first appropriated for such purposes shall first be made available to States that received grants under this section during the fiscal year preceding the fiscal year concerned.

(5) DEFINITIONS.—For purposes of this subsection:

(A) The term "State" does not include the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

(B) The term "territory" means the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(d) PRIORITIES FOR DISTRIBUTION.—To the extent practicable, the Secretary shall award grants to States under this section in a manner that—

(1) is geographically equitable; and

(2) distributes the grants among States that have differing levels of development of statewide programs of technology-related assistance.

(e) APPLICATIONS.—Any State that desires to receive a grant under this section shall submit an application that contains the following information and assurances:

(1) DESIGNATION OF RESPONSIBLE ENTITY.—The designation by the Governor of the office, agency, entity, or individual responsible for—

(A) preparing the application;

(B) administering and supervising the use of amounts made available under the grant;

(C) planning and developing the statewide program of technology-related assistance;

(D) coordination between public and private agencies, including the entering into of interagency agreements;

(E) ensuring active, timely, and meaningful participation by individuals with disabilities, the families or representatives of such individuals, and other appropriate individuals with respect to performing functions and carrying out activities under the grant; and

(F) the delegation of any responsibilities described above, in whole or in part, to one or more appropriate offices, agencies, entities, or individuals.

(2) AGENCY INVOLVEMENT.—A description of the nature and extent of involvement of various State agencies in the preparation of the application and the continuing role of such agencies in the development of the statewide program of technology-related assistance.

(3) PUBLIC INVOLVEMENT.—A description of the nature and extent of involvement of individuals with disabilities, the families or representatives of such individuals, and other appropriate individuals who are not employed by a State agency in the development of the application and the continuing role of such individuals in the development of the statewide program of technology-related assistance.

(4) PRELIMINARY NEEDS ASSESSMENT.—A tentative assessment of the extent of the need of individuals with disabilities in the State, including individuals from underserved groups, for a statewide program of technology-related assistance and a description of previous efforts and efforts continuing on the date of the application to develop a statewide program of technology-related assistance.

(5) STATE RESOURCES.—A description of State resources and other resources (to the extent such information is available) that are available to commit to the development of a statewide program of technology-related assistance.

(6) GOALS, OBJECTIVES, FUNCTIONS, ACTIVITIES, AND OUTCOMES.—The State's goals, objectives, functions, and activities planned under the grant, and the expected outcomes at the end of the grant period with respect to a consumer-responsive statewide program of technology-related assistance, consistent with the purposes described in section 2(b)(1).

(7) INFORMATION AND EVALUATIONS.—A description of—

(A) procedures used for compiling information; and

(B) procedures that will be used to conduct evaluations.

(8) STATE POLICIES WITH RESPECT TO CONTRACTS AND AGREEMENTS.—A description of the policies governing contracts, grants, and other arrangements with public agencies, private nonprofit organizations, and other entities or individuals for the purpose of providing assistive technology devices and assistive technology services consistent with the provisions of this title.

(9) DISTRIBUTION PROCEDURE.—An assurance that, to the extent practicable, technology-related assistance made available with amounts received under the grant will be equitably distributed among all geographical areas of the State.

(10) COMPLIANCE WITH ACT.—An assurance that amounts received under the grant will be expended in accordance with the provisions of this title.

(11) SUPPLEMENT OTHER FUNDS.—An assurance that amounts received under the grant—

(A) will be used to supplement amounts available from other sources that are expended for technology-related assistance, including the provision of assistive technology devices and assistive technology services; and

(B) will not be used to pay a financial obligation for technology-related assistance (including the provision of assistive technology devices or assistive technology services) that would have been paid with amounts available from other sources if amounts under the grant had not been available, unless—

(i) such payment is made only to prevent a delay in the receipt of appropriate technology-related assistance (including the provision of assistive technology devices or assistive technology services) by an individual with disabilities; and

(ii) the entity or agency responsible subsequently reimburses the appropriate account with respect to programs and activities under the grant in an amount equal to the amount of the payment.

(12) CONTROL OF FUNDS AND PROPERTY.—An assurance that—

(A) a public agency shall control and administer amounts received under the grant; and

(B) a public agency or an individual with disabilities shall—

(i) hold title to property purchased with such amounts; and

(ii) administer such property.

(13) REPORTS.—An assurance that the State will—

(A) prepare reports to the Secretary in such form and containing such information as the Secretary may require to carry out the Secretary's functions under this title; and

(B) keep such records and allow access to such records as the Secretary may require to ensure the correctness and verification of information provided to the Secretary under this paragraph.

(14) COMMINGLING OF FUNDS.—An assurance that amounts received under the grant will not be commingled with State or other funds.

(15) FISCAL CONTROL AND ACCOUNTING PROCEDURES.—An assurance that the State will adopt such fiscal control and accounting procedures as may be necessary to ensure proper disbursement of and accounting for amounts received under the grant.

(16) AVAILABILITY OF INFORMATION.—An assurance that the State will—

(A) make available to individuals with disabilities and the families or representatives of individuals with disabilities information concerning technology-related assistance in a form that will allow such individuals to effectively use such information; and

(B) in preparing such information for dissemination, consider the media-related needs of individuals with disabilities who have sensory and cognitive limitations and consider the use of auditory materials, including audio cassettes, visual materials, including video cassettes and video discs, and braille materials.

(17) OTHER INFORMATION.—Such other information and assurances as the Secretary may reasonably require.

(29 U.S.C. 2212)

SEC. 103. EXTENSION GRANTS.

(a) GENERAL AUTHORITY.—The Secretary may award a 2-year extension grant to any State that demonstrates to the Secretary that the State made significant progress in developing and implementing a statewide program of technology-related assistance under a grant provided under section 102, consistent with the requirements of such section and the purposes described in section 2(b)(1).

(b) AMOUNTS OF GRANTS.—

(1) IN GENERAL.—(A) From amounts appropriated under section 106 for any fiscal year, the Secretary shall pay to each State that receives a grant under this section an amount that is not less than $500,000 and not more than $1,500,000.

(B) From amounts appropriated under section 106 for any fiscal year, the Secretary shall pay to each territory that receives a grant under this section not more than $150,000.

(C) For purposes of this paragraph:

(i) The term "State" does not include the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

(ii) The term "territory" means the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(2) CALCULATION OF AMOUNT.—The Secretary shall calculate the amount described in paragraph (1) on the basis of—

(A) amounts available for making grants pursuant to this section;

(B) the population of the State;

(C) the types of assistance to be provided; and

(D) the amount of resources committed and available from other sources.

(3) PRIORITY FOR PREVIOUSLY PARTICIPATING STATES.—Amounts appropriated in any fiscal year for purposes of carrying out the provisions of this section shall first be made avail-

able to States that received grants under this section during the fiscal year preceding the fiscal year concerned.

(c) APPLICATION.—A State that desires to receive an extension grant under this section shall submit an application that contains the following:

(1) NEEDS.—A description of needs relating to technology-related assistance of individuals with disabilities, including individuals from underserved groups, families or representatives of individuals with disabilities, and other appropriate individuals within the State.

(2) ACTIVITIES UNDER DEVELOPMENT GRANT.—A description of the specific activities carried out under the development grant received under section 102 and the relationship of such activities to the development of a statewide program of technology-related assistance.

(3) PROGRESS.—Documentation of the progress made under the development grant toward development of a statewide program of technology-related assistance.

(4) PUBLIC INVOLVEMENT.—A description of State actions designed to determine the degree of satisfaction of individuals with disabilities, families or representatives of individuals with disabilities, public and private service providers, employers, and other appropriate individuals with—

(A) the degree of their ongoing involvement in the development and implementation of the statewide program of technology-related assistance;

(B) the specific activities carried out by the State under the development grant; and

(C) progress made toward development and implementation of a consumer-responsive statewide program of technology-related assistance under the development grant.

(5) COMMENTS.—A summary of any comments received concerning the issues described in paragraph (4) and the State's response to such comments, solicited from individuals affected by the statewide program of technology-related assistance, including individuals with disabilities, families or representatives of individuals with disabilities, public and private service providers, employers, and other appropriate individuals.

(6) OTHER INFORMATION AND ASSURANCES.—The information and assurances described in section 102(e), except the preliminary needs assessment described in section 102(e)(4).

(7) COMPATIBILITY AND ACCESSIBILITY OF ELECTRONIC EQUIPMENT.—An assurance that the State will comply with guidelines established under section 508 of the Rehabilitation Act of 1973.

(29 U.S.C. 2213)

SEC. 104. PROGRESS REPORTS.

(a) IN GENERAL.—Each State that receives a grant under this title shall submit to the Secretary annually a report that describes—

(1) completed activities carried out under the grant, especially with regard to section 102(e)(6), including, to the extent

appropriate, a description of the impact of such activities on individuals with disabilities, public agencies, financial resources committed to technology-related assistance for individuals with disabilities, community-based organizations, and employers;

(2) unanticipated problems encountered in carrying out such activities; [1]

(3) activities planned to rectify such problems in the following year.

(b) SPECIFIC REQUIREMENTS FOR REPORTS WITH RESPECT TO EXTENSION GRANTS.—Each State that receives a development grant under section 102 may include, and each State that receives an extension grant under section 103 shall include in the report required by subsection (a) a description of—

(1) the types of assistance provided under the grant and the effects of such assistance, especially with respect to individuals with disabilities;

(2) the types of environments in which assistance was provided under the grant; and

(3) how the information required by this subsection was derived.

(29 U.S.C. 2214)

SEC. 105. ADMINISTRATIVE PROVISIONS.

(a) REVIEW OF PARTICIPATING STATES.—

(1) IN GENERAL.—The Secretary shall establish a system to assess the extent to which States that receive grants pursuant to this title are making significant progress in achieving the purposes of this title.

(2) ONSITE VISITS.—(A) The Secretary shall conduct an onsite visit during the final year of each State's participation in the development grant program. Two-thirds of the onsite monitoring team in each case shall be qualified peer reviewers from other participating States.

(B)(i) Members of any onsite monitoring team who are officers or full-time employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States, but they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5702 of title 5, United States Code, for individuals in the Government service traveling on official business.

(ii) Members of any onsite monitoring team who are not officers or full-time employees of the United States shall receive compensation at a rate not to exceed the daily equivalent of the pay rate specified for GS–18 of the General Schedule under section 5332 of title 5, United States Code, for each day (including traveltime) during which such members are engaged in the actual performance of their duties as members of an onsite monitoring team. In addition, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government service employed intermittently.

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[1] So in law. Probably should be ", and".

(3) MINIMUM REQUIREMENTS.—At a minimum the visits shall allow the Secretary to determine the extent to which the State is making significant progress in developing a statewide program of technology-related assistance consistent with the purposes described in section 2(b)(1).

(4) PROVISION OF INFORMATION.—To assist the Secretary in carrying out the responsibilities of the Secretary under this section, the Secretary may require States to provide relevant information.

(b) CORRECTIVE ACTION PLAN.—

(1) IN GENERAL.—Any State that fails to comply with the requirements of this title shall be subject to a corrective action plan.

(2) PENALTIES.—A State that fails to comply with the requirements of this title may be subject to penalties such as—

(A) partial or complete fund termination;

(B) ineligibility to participate in the grant program in the following year; or

(C) reduction in funding for the following year.

(3) APPEALS PROCEDURES.—The Secretary shall establish appeals procedures for States that are found in noncompliance with the provisions of this title as the result of an onsite visit or failure to supply information required under subsection (a)(4).

(c) EFFECT ON OTHER ASSISTANCE.—Nothing in this title shall be construed to permit the State or any Federal agency to reduce medical or other assistance available or to alter eligibility under—

(1) title II, V, XVI, XVIII, XIX, or XX of the Social Security Act;

(2) the Individuals with Disabilites Education Act;

(3) the Rehabilitation Act of 1973; or

(4) laws relating to veterans' benefits.

(29 U.S.C. 2215)

SEC. 106. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this title $9,000,000 for the fiscal year 1989 and such sums as may be necessary for each succeeding fiscal year ending before October 1, 1993.

(b) RESERVATION.—

(1) PROVISION OF INFORMATION.—The Secretary shall reserve 1 percent of funds appropriated in any fiscal year under subsection (a), or $500,000, whichever is greater, for the purpose of providing States with information and technical assistance with respect to the development and implementation of consumer-responsive statewide programs of technology-related assistance.

(2) ONSITE VISITS.—The Secretary may reserve from amounts appropriated in any fiscal year under subsection (a) such sums as the Secretary considers necessary for the purposes of conducting onsite visits as required by section 105(a)(2).

(29 U.S.C. 2216)

SEC. 107. EVALUATION.

(a) EVALUATION.—

(1) IN GENERAL.—The Secretary, directly or by contract, shall conduct a national evaluation of the program of grants to States authorized by this title.

(2) REPORT TO CONGRESS.—The Secretary shall report to the Congress on the results of the evaluation conducted as required by paragraph (1) not later than October 1, 1992.

(b) PURPOSE.—The purpose of the evaluation required by subsection (a) shall be—

(1) to assess, through representative samples, the status and effects of State efforts to develop statewide programs of technology-related assistance for individuals with disabilities in a manner consistent with the provisions of this title, particularly in terms of the impact of such efforts on individuals with disabilities; and

(2) to recommend amendments to this title that the Secretary considers necessary to assist States to fully accomplish the purposes of this title.

(c) INFORMATION SYSTEM.—The Secretary shall work with the States to consider and develop an information system designed to report and compile, from information provided by the States, a qualitative and quantitative description of the impact of the program of grants to States authorized by this title on—

(1) the lives of individuals with disabilities, particularly with regard to the purposes described in section 2(a)(3);

(2) public agencies;

(3) fiscal resources committed to technology-related assistance for individuals with disabilities;

(4) community-based organizations; and

(5) employers.

(29 U.S.C. 2217)

TITLE II—PROGRAMS OF NATIONAL SIGNIFICANCE

PART A—STUDY ON FINANCING OF ASSISTIVE TECHNOLOGY DEVICES AND ASSISTIVE TECHNOLOGY SERVICES FOR INDIVIDUALS WITH DISABILITIES

SEC. 201. STUDY BY NATIONAL COUNCIL ON THE HANDICAPPED.

(a) STUDY AND RECOMMENDATIONS.—The National Council on the Handicapped (hereafter in this part referred to as the "Council"), in addition to the duties of the Council described in section 401 of the Rehabilitation Act of 1973, shall conduct a study and make recommendations to the Congress and the President concerning—

(1) Federal laws, regulations, procedures, and practices that facilitate or impede the ability of the States to develop and implement consumer-responsive statewide programs of technology-related assistance for individuals with disabilities;

(2) Federal and State laws, regulations, procedures, and practices that facilitate or impede the acquisition of, financing of, or payment for assistive technology devices and assistive technology services for individuals with disabilities;

(3) policies, practices, and procedures of private entities (including insurers) that facilitate or impede the acquisition of, financing of, or payment for assistive technology devices and assistive technology services for individuals with disabilities; and

(4) alternative strategies for acquiring or paying for assistive technology devices and assistive technology services.

(b) ADVISORY COMMITTEE.—The Council shall appoint an advisory committee in accordance with section 404(c) of the Rehabilitation Act of 1973 to assist the Council in carrying out the duties of the Council under this part. Such advisory committee shall be appointed from individuals from both the public and private sectors who have broad experience and expertise directly relevant to the issues to be studied by the Council under this part, and shall also include individuals with disabilities, families of individuals with disabilities, and representatives of organizations representing individuals with disabilities.

(c) COOPERATION OF OTHER AGENCIES.—

(1) FEDERAL AGENCIES.—The heads of all Federal agencies shall, to the extent not prohibited by law, cooperate with the Council in carrying out the duties of the Council under this part.

(2) USE OF RESOURCES OF FEDERAL, STATE, AND LOCAL AGENCIES.—The Council may use in carrying out its duties under this part, with the consent of the agency involved, services, personnel, information, and facilities of other Federal, State, local, and private agencies, with or without reimbursement.

(d) REPORTS.—The Council shall submit to the President and to the appropriate committees of the Congress—

(1) such interim reports as the Council considers advisable; and

(2) not later than 18 months after the date of the enactment of an Act providing appropriations to carry out this part, a final report of its study and investigation together with such recommendations, including specific proposals for legislation, as the Council considers advisable.

(29 U.S.C. 2231)

PART B—NATIONAL INFORMATION AND PROGRAM REFERRAL NETWORK

SEC. 211. ESTABLISHMENT OF NATIONAL INFORMATION AND PROGRAM REFERRAL NETWORK.

Before the end of the 30-month period beginning on the date of the enactment of an Act providing appropriations to carry out this part, the Secretary shall—

(1) determine whether it is appropriate, based on the findings and recommendations of the study conducted under section 212, to establish and operate a national information and

program referral network to assist States to develop and implement consumer-responsive statewide programs of technology-related assistance; and

(2) if the Secretary determines that establishment and operation of such a network is appropriate, enter into any contract or cooperative agreement necessary to establish and operate such a network, which may consist of information and program referral networks in existence or under development at the time of the study conducted under section 212.

(29 U.S.C. 2241)

SEC. 212. FEASIBILITY STUDY REQUIRED.

(a) IN GENERAL.—The Secretary shall conduct a study—

(1) to determine the feasibility and desirability of creating the network described in section 211; and

(2) to determine the appropriate structure for the organization and operation of such a network, if it is determined to be feasible and desirable.

(b) CONTRACT AUTHORITY.—In carrying out the study required by subsection (a), the Secretary may enter into a contract or cooperative agreement necessary to conduct the study.

(29 U.S.C. 2242)

SEC. 213. CONTENTS OF STUDY.

The study conducted under section 212 shall—

(1) analyze the needs of States that are interested in developing and implementing consumer-responsive statewide programs of technology-related assistance;

(2) describe the types of information and program referral networks (including electronic networks) in existence or under development at the time of the study, including—

(A) the types of information and program referral incorporated into or provided by such networks;

(B) the cost of maintaining such networks;

(C) the types of services provided by such networks;

(D) the types and numbers of individuals served by such networks;

(E) the location of such networks and accessibility to other networks; and

(F) the feasibility and desirability of linking such networks, including proposed plans and an estimate of the cost of such a linkage;

(3) analyze the impediments to the exchange of information and the development and operation of such networks;

(4) describe the information that should be incorporated into a national information and program referral network to ensure that the network serves the entire United States, in particular addressing the gaps in existing networks and methods of filling such gaps using networks in existence or under development at the time of the study;

(5) describe the information systems from other fields of technology development that may be incorporated into a national information and program referral network on technology-related assistance;

(6) analyze the issues involved in operating a national information and program referral network;

(7) analyze and describe management and cost projections for a national information and program referral network;

(8) evaluate operational alternatives including at least the advantages and disadvantages of—

(A) grant arrangements, contracting arrangements, or other funding mechanisms or arrangements, and the lengths of any such arrangements;

(B) various network configurations, including—

(i) regionally distributed;

(ii) focused on functional limitations;

(iii) age-focused;

(iv) expertise-centered; and

(v) other network configurations;

(C) costs associated with funding arrangements described in subparagraph (A) and network configurations described in subparagraph (B), and options for paying such costs, including the possible use of Federal funds, State funds, and other alternatives;

(D) mechanisms of payment for information and program referral services;

(E) mechanisms for ensuring that information systems remain current, have relevant and useful information, and provide information in a form that allows individuals with disabilities to make effective use of the information;

(F) forms of Federal oversight and independent evaluations that could be applied to a national information and program referral network;

(G) types of staffing expertise required for different options; and

(H) types of institutional oversight, such as governing boards and advisory panels; and

(9) a timetable for implementation of various network options.

(29 U.S.C. 2243)

SEC. 214. TIMETABLE FOR STUDY.

(a) AWARD OF CONTRACT.—The Secretary shall, before the end of the six-month period beginning on the date of the enactment of an Act providing appropriations to carry out the study required by this part, enter into any contract or cooperative agreement necessary for conducting such study.

(b) COMPLETION OF STUDY.—Any contract or agreement entered into under subsection (a) shall require the study to be completed and a report concerning such study to be submitted to the Secretary and to the appropriate committees of the Congress before the end of the 18-month period beginning on the date of the contract or agreement.

(c) IMPLEMENTATION OF RECOMMENDATIONS.—The Secretary, after allowing for public comment on the report submitted under subsection (b), shall take appropriate action based on the report before the end of the 6-month period following the date on which the Secretary receives the report.

(29 U.S.C. 2244)

PART C—TRAINING AND PUBLIC AWARENESS PROJECTS

SEC. 221. TRAINING.

(a) TECHNOLOGY TRAINING.—

(1) GENERAL AUTHORITY.—The Secretary shall enter into contracts or cooperative agreements with appropriate public or private agencies and organizations, including institutions of higher education, for the purposes of—

(A) conducting training sessions; and

(B) developing, demonstrating, disseminating, and evaluating curricula, materials, and methods used to train individuals regarding the provision of technology-related assistance.

(2) ELIGIBLE ACTIVITIES.—Activities conducted under contracts or cooperative agreements entered into under paragraph (1) may address the training needs of individuals with disabilities, the families or representatives of individuals with disabilities, individuals who work for public agencies and private entities that have contact with individuals with disabilities (including insurers), employers, and other appropriate individuals.

(b) TECHNOLOGY CAREERS.—

(1) GENERAL AUTHORITY.—The Secretary shall make grants to assist institutions of higher education to prepare personnel for careers relating to the provision of technology-related assistance to individuals with disabilities.

(2) PRIORITY.—In awarding grants under paragraph (1), the Secretary shall give priority to the preparation of personnel who will provide technical assistance, administer programs, or prepare personnel necessary to support the development and implementation of consumer-responsive statewide programs of technology-related assistance to individuals with disabilities.

(3) USES OF FUNDS.—Amounts made available for grants under paragraph (1) may be used by institutions of higher education to assist in covering the cost of courses of training or study for such personnel and for establishing and maintaining fellowships or traineeships with such stipends and allowances as may be determined by the Secretary.

(29 U.S.C. 2251)

SEC. 222. PUBLIC AWARENESS PROJECTS.

(a) PROGRAM AUTHORIZED.—The Secretary shall make grants to, or enter into contracts with, public or private agencies and organizations, including institutions of higher education, to carry out national projects that recognize and build awareness of the importance and efficacy of assistive technology devices and assistive technology services for individuals of all ages with disabilities functioning in various settings of daily life.

(b) USES OF FUNDS.—Amounts made available for grants and contracts under subsection (a) may be used to—

(1) develop a national media campaign (including public service time slots on radio and television);

(2) convene national or regional conferences;

(3) prepare and disseminate information (including summaries, comparisons, analyses, and cost-benefit projections) concerning the efficacy of technology-related assistance;

(4) encourage others to hold national or regional conferences;

(5) develop and maintain recognition programs that are designed to promote public credit to entities that demonstrate an aggressive effort for a sustained time to provide or promote the use of technology-related assistance or the development of assistive technology devices; and

(6) other activities considered appropriate by the Secretary.

(29 U.S.C. 2252)

SEC. 223. PRIORITIES.

(a) IN GENERAL.—Beginning in fiscal year 1991, the Secretary shall—

(1) establish priorities for activities carried out with assistance under this part;

(2) publish such priorities in the Federal Register for the purpose of receiving public comment; and

(3) publish such priorities in the Federal Register in final form not later than the date on which the Secretary publishes grant announcements for grants made under this part.

(b) EXPLANATION OF DETERMINATION OF PRIORITIES.—Concurrent with the publication required by subsection (a), the Secretary shall publish in the Federal Register an explanation of how the priorities were determined.

(29 U.S.C. 2253)

PART D—DEMONSTRATION AND INNOVATION PROJECTS

SEC. 231. PROGRAM AUTHORIZED.

(a) DEMONSTRATION AND INNOVATION PROJECTS.—The Secretary shall make grants to, or enter into contracts or cooperative agreements with, public or private agencies and organizations, including institutions of higher education, to pay all or part of the cost of establishing or operating demonstration and innovation projects relating to technology-related assistance for individuals with disabilities.

(b) ELIGIBLE ACTIVITIES.—Amounts made available for purposes of carrying out this part may be used for the following activities:

(1) MODEL PROJECTS FOR DELIVERING ASSISTIVE TECHNOLOGY DEVICES AND SERVICES.—The establishment or operation of model projects for delivering assistive technology devices and assistive technology services to individuals of all ages with disabilities functioning in various environments and carrying out various life activities (including model systems described in section 101(c)(1) of title I).

(2) MODEL RESEARCH AND DEVELOPMENT PROJECTS.—The conduct of applied research and development projects, including projects designed to—

(A) increase the availability of reliable and durable assistive technology devices that address unique, low-market demand, or complex technology-related needs for individuals with disabilities;

(B) develop strategies and techniques that involve individuals with disabilities in assessing the performance characteristics of technology that is not designed specifically for individuals with disabilities and developing adaptations of such technology for individuals with disabilities;

(C) assist in the transfer of technology that is not specifically designed for individuals with disabilities to uses appropriate for such individuals; and

(D) facilitate effective and efficient technology transfer.

(3) INCOME-CONTINGENT DIRECT LOAN DEMONSTRATION PROJECT.—Demonstration projects in accordance with regulations issued by the Secretary (which may include a requirement that the Secretary shall provide an amount equal to not more than 90 percent of the amount required for any such project) to examine the feasibility of a direct loan program that would provide loans—

(A) to individuals with disabilities who require technology-related assistance in order to maintain a level of functioning or to achieve a greater level of functioning in any major life activity; or

(B) to the families or employers of individuals with disabilities, on behalf of such individuals, for the purposes described in subparagraph (A).

(c) REPORT TO CONGRESS ON EXTENSION OF DIRECT LOAN PROGRAM.—The Secretary shall, based on the projects assisted under subsection (b)(3), report to Congress concerning the feasibility of operating a direct loan program of general applicability beginning after September 30, 1993.

(29 U.S.C. 2261)

PART E—AUTHORIZATION OF APPROPRIATIONS

SEC. 241. AUTHORIZATION OF APPROPRIATIONS.

(a) GENERAL AUTHORITY.—There are authorized to be appropriated for purposes of carrying out this title (other than section 231(b)(1)) $5,000,000 for the fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993.

(b) MODEL DELIVERY PROJECTS.—There are authorized to be appropriated for purposes of carrying out section 231(b)(1) $1,500,000 for the fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993.

(c) PRIORITIES.—

(1) MODEL DELIVERY PROJECTS.—Notwithstanding any other provision of this Act, if amounts appropriated for purposes of carrying out this Act for the fiscal year 1989 equal or exceed $6,000,000, the Secretary shall first make available, from such amounts, not less than $500,000 for demonstration projects under section 231(b)(1).

(2) OTHER TITLE II ACTIVITIES.—(A) Of amounts appropriated under subsection (a) for the fiscal year 1989, the Secretary shall first make available not more than $250,000 for purposes of carrying out part A.

(B) Subject to subparagraph (A), of amounts appropriated under subsection (a) for any fiscal year, the Secretary shall first make available, in order of priority—

(i) not more than $750,000 for purposes of carrying out section 212; and

(ii) such sums as may be necessary for purposes of carrying out section 211.

(29 U.S.C. 2271)

AMERICANS WITH DISABILITIES ACT
OF 1990

AMERICANS WITH DISABILITIES ACT OF 1990

AN ACT To establish a clear and comprehensive prohibition of discrimination on the basis of disability.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. [42 U.S.C. 12101] SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Americans with Disabilities Act of 1990".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Definitions.

TITLE I—EMPLOYMENT

Sec. 101. Definitions.
Sec. 102. Discrimination.
Sec. 103. Defenses.
Sec. 104. Illegal use of drugs and alcohol.
Sec. 105. Posting notices.
Sec. 106. Regulations.
Sec. 107. Enforcement.
Sec. 108. Effective date.

TITLE II—PUBLIC SERVICES

SUBTITLE A—PROHIBITION AGAINST DISCRIMINATION AND OTHER GENERALLY APPLICABLE PROVISIONS

Sec. 201. Definition.
Sec. 202. Discrimination.
Sec. 203. Enforcement.
Sec. 204. Regulations.
Sec. 205. Effective date.

SUBTITLE B—ACTIONS APPLICABLE TO PUBLIC TRANSPORTATION PROVIDED BY PUBLIC ENTITIES CONSIDERED DISCRIMINATORY

PART I—PUBLIC TRANSPORTATION OTHER THAN BY AIRCRAFT OR CERTAIN RAIL OPERATIONS

Sec. 221. Definitions.
Sec. 222. Public entities operating fixed route systems.
Sec. 223. Paratransit as a complement to fixed route service.
Sec. 224. Public entity operating a demand responsive system.
Sec. 225. Temporary relief where lifts are unavailable.
Sec. 226. New facilities.
Sec. 227. Alterations of existing facilities.
Sec. 228. Public transportation programs and activities in existing facilities and one car per train rule.
Sec. 229. Regulations.
Sec. 230. Interim accessibility requirements.
Sec. 231. Effective date.

PART II—PUBLIC TRANSPORTATION BY INTERCITY AND COMMUTER RAIL

Sec. 241. Definitions.
Sec. 242. Intercity and commuter rail actions considered discriminatory.

Sec. 243. Conformance of accessibility standards.
Sec. 244. Regulations.
Sec. 245. Interim accessibility requirements.
Sec. 246. Effective date.

TITLE III—PUBLIC ACCOMMODATIONS AND SERVICES OPERATED BY PRIVATE ENTITIES

Sec. 301. Definitions.
Sec. 302. Prohibition of discrimination by public accommodations.
Sec. 303. New construction and alterations in public accommodations and commercial facilities.
Sec. 304. Prohibition of discrimination in specified public transportation services provided by private entities.
Sec. 305. Study.
Sec. 306. Regulations.
Sec. 307. Exemptions for private clubs and religious organizations.
Sec. 308. Enforcement.
Sec. 309. Examinations and courses.
Sec. 310. Effective date.

TITLE IV—TELECOMMUNICATIONS

Sec. 401. Telecommunications relay services for hearing-impaired and speech-impaired individuals.
Sec. 402. Closed-captioning of public service announcements.

TITLE V—MISCELLANEOUS PROVISIONS

Sec. 501. Construction.
Sec. 502. State immunity.
Sec. 503. Prohibition against retaliation and coercion.
Sec. 504. Regulations by the Architectural and Transportation Barriers Compliance Board.
Sec. 505. Attorney's fees.
Sec. 506. Technical assistance.
Sec. 507. Federal wilderness areas.
Sec. 508. Transvestites.
Sec. 509. Coverage of Congress and the agencies of the legislative branch.
Sec. 510. Illegal use of drugs.
Sec. 511. Definitions.
Sec. 512. Amendments to the Rehabilitation Act.
Sec. 513. Alternative means of dispute resolution.
Sec. 514. Severability.

SEC. 2. [42 U.S.C. 12101] FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) some 43,000,000 Americans have one or more physical or mental disabilities, and this number is increasing as the population as a whole is growing older;

(2) historically, society has tended to isolate and segregate individuals with disabilities, and, despite some improvements, such forms of discrimination against individuals with disabilities continue to be a serious and pervasive social problem;

(3) discrimination against individuals with disabilities persists in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and access to public services;

(4) unlike individuals who have experienced discrimination on the basis of race, color, sex, national origin, religion, or age, individuals who have experienced discrimination on the basis of disability have often had no legal recourse to redress such discrimination;

(5) individuals with disabilities continually encounter various forms of discrimination, including outright intentional exclusion, the discriminatory effects of architectural, transportation, and communication barriers, overprotective rules and policies, failure to make modifications to existing facilities and practices, exclusionary qualification standards and criteria, segregation, and relegation to lesser services, programs, activities, benefits, jobs, or other opportunities;

(6) census data, national polls, and other studies have documented that people with disabilities, as a group, occupy an inferior status in our society, and are severely disadvantaged socially, vocationally, economically, and educationally;

(7) individuals with disabilities are a discrete and insular minority who have been faced with restrictions and limitations, subjected to a history of purposeful unequal treatment, and relegated to a position of political powerlessness in our society, based on characteristics that are beyond the control of such individuals and resulting from stereotypic assumptions not truly indicative of the individual ability of such individuals to participate in, and contribute to, society;

(8) the Nation's proper goals regarding individuals with disabilities are to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for such individuals; and

(9) the continuing existence of unfair and unnecessary discrimination and prejudice denies people with disabilities the opportunity to compete on an equal basis and to pursue those opportunities for which our free society is justifiably famous, and costs the United States billions of dollars in unnecessary expenses resulting from dependency and nonproductivity.

(b) PURPOSE.—It is the purpose of this Act—

(1) to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities;

(2) to provide clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities;

(3) to ensure that the Federal Government plays a central role in enforcing the standards established in this Act on behalf of individuals with disabilities; and

(4) to invoke the sweep of congressional authority, including the power to enforce the fourteenth amendment and to regulate commerce, in order to address the major areas of discrimination faced day-to-day by people with disabilities.

SEC. 3. [42 U.S.C. 12102] DEFINITIONS.

As used in this Act:

(1) AUXILIARY AIDS AND SERVICES.—The term "auxiliary aids and services" includes—

(A) qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments;

(B) qualified readers, taped texts, or other effective methods of making visually delivered materials available to individuals with visual impairments;

(C) acquisition or modification of equipment or devices; and

(D) other similar services and actions.

(2) DISABILITY.—The term "disability" means, with respect to an individual—

(A) a physical or mental impairment that substantially limits one or more of the major life activities of such individual;

(B) a record of such an impairment; or

(C) being regarded as having such an impairment.

(3) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

TITLE I—EMPLOYMENT

SEC. 101. [42 U.S.C. 12111] DEFINITIONS.

As used in this title:

(1) COMMISSION.—The term "Commission" means the Equal Employment Opportunity Commission established by section 705 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-4).

(2) COVERED ENTITY.—The term "covered entity" means an employer, employment agency, labor organization, or joint labor-management committee.

(3) DIRECT THREAT.—The term "direct threat" means a significant risk to the health or safety of others that cannot be eliminated by reasonable accommodation.

(4) EMPLOYEE.—The term "employee" means an individual employed by an employer. With respect to employment in a foreign country, such term includes an individual who is a citizen of the United States.

(5) EMPLOYER.—

(A) IN GENERAL.—The term "employer" means a person engaged in an industry affecting commerce who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such person, except that, for two years following the effective date of this title, an employer means a person engaged in an industry affecting commerce who has 25 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding year, and any agent of such person.

(B) EXCEPTIONS.—The term "employer" does not include—

(i) the United States, a corporation wholly owned by the government of the United States, or an Indian tribe; or

(ii) a bona fide private membership club (other than a labor organization) that is exempt from taxation under section 501(c) of the Internal Revenue Code of 1986.

(6) Illegal use of drugs.—

(A) In general.—The term "illegal use of drugs" means the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act (21 U.S.C. 812). Such term does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

(B) Drugs.—The term "drug" means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act.

(7) Person, etc.—The terms "person", "labor organization", "employment agency", "commerce", and "industry affecting commerce", shall have the same meaning given such terms in section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e).

(8) Qualified individual with a disability.—The term "qualified individual with a disability" means an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires. For the purposes of this title, consideration shall be given to the employer's judgment as to what functions of a job are essential, and if an employer has prepared a written description before advertising or interviewing applicants for the job, this description shall be considered evidence of the essential functions of the job.

(9) Reasonable accommodation.—The term "reasonable accommodation" may include—

(A) making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and

(B) job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

(10) Undue hardship.—

(A) In general.—The term "undue hardship" means an action requiring significant difficulty or expense, when considered in light of the factors set forth in subparagraph (B).

(B) Factors to be considered.—In determining whether an accommodation would impose an undue hardship on a covered entity, factors to be considered include—

(i) the nature and cost of the accommodation needed under this Act;

(ii) the overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such accommodation upon the operation of the facility;

(iii) the overall financial resources of the covered entity; the overall size of the business of a covered entity with respect to the number of its employees; the number, type, and location of its facilities; and

(iv) the type of operation or operations of the covered entity, including the composition, structure, and functions of the workforce of such entity; the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the covered entity.

SEC. 102. [42 U.S.C. 12112] DISCRIMINATION.

(a) GENERAL RULE.—No covered entity shall discriminate against a qualified individual with a disability because of the disability of such individual in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment.

(b) CONSTRUCTION.—As used in subsection (a), the term "discriminate" includes—

(1) limiting, segregating, or classifying a job applicant or employee in a way that adversely affects the opportunities or status of such applicant or employee because of the disability of such applicant or employee;

(2) participating in a contractual or other arrangement or relationship that has the effect of subjecting a covered entity's qualified applicant or employee with a disability to the discrimination prohibited by this title (such relationship includes a relationship with an employment or referral agency, labor union, an organization providing fringe benefits to an employee of the covered entity, or an organization providing training and apprenticeship programs);

(3) utilizing standards, criteria, or methods of administration—

(A) that have the effect of discrimination on the basis of disability; or

(B) that perpetuate the discrimination of others who are subject to common administrative control;

(4) excluding or otherwise denying equal jobs or benefits to a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a relationship or association;

(5)(A) not making reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless such covered entity can demonstrate that the accommodation would impose an undue hardship on the operation of the business of such covered entity; or

(B) denying employment opportunities to a job applicant or employee who is an otherwise qualified individual with a disability, if such denial is based on the need of such covered entity to make reasonable accommodation to the physical or mental impairments of the employee or applicant;

(6) using qualification standards, employment tests or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities unless the standard, test or other selection criteria, as used by the covered entity, is shown to be job-related for the position in question and is consistent with business necessity; and

(7) failing to select and administer tests concerning employment in the most effective manner to ensure that, when such test is administered to a job applicant or employee who has a disability that impairs sensory, manual, or speaking skills, such test results accurately reflect the skills, aptitude, or whatever other factor of such applicant or employee that such test purports to measure, rather than reflecting the impaired sensory, manual, or speaking skills of such employee or applicant (except where such skills are the factors that the test purports to measure).

(c) COVERED ENTITIES IN FOREIGN COUNTRIES.—

(1) IN GENERAL.—It shall not be unlawful under this section for a covered entity to take any action that constitutes discrimination under this section with respect to an employee in a workplace in a foreign country if compliance with this section would cause such covered entity to violate the law of the foreign country in which such workplace is located.

(2) CONTROL OF CORPORATION.—

(A) PRESUMPTION.—If an employer controls a corporation whose place of incorporation is a foreign country, any practice that constitutes discrimination under this section and is engaged in by such corporation shall be presumed to be engaged in by such employer.

(B) EXCEPTION.—This section shall not apply with respect to the foreign operations of an employer that is a foreign person not controlled by an American employer.

(C) DETERMINATION.—For purposes of this paragraph, the determination of whether an employer controls a corporation shall be based on—

(i) the interrelation of operations;
(ii) the common management;
(iii) the centralized control of labor relations; and
(iv) the common ownership or financial control,

of the employer and the corporation.

(d) MEDICAL EXAMINATIONS AND INQUIRIES.—

(1) IN GENERAL.—The prohibition against discrimination as referred to in subsection (a) shall include medical examinations and inquiries.

(2) PREEMPLOYMENT.—

(A) PROHIBITED EXAMINATION OR INQUIRY.—Except as provided in paragraph (3), a covered entity shall not conduct a medical examination or make inquiries of a job applicant as to whether such applicant is an individual with a disability or as to the nature or severity of such disability.

(B) Acceptable inquiry.—A covered entity may make preemployment inquiries into the ability of an applicant to perform job-related functions.

(3) Employment entrance examination.—A covered entity may require a medical examination after an offer of employment has been made to a job applicant and prior to the commencement of the employment duties of such applicant, and may condition an offer of employment on the results of such examination, if—

(A) all entering employees are subjected to such an examination regardless of disability;

(B) information obtained regarding the medical condition or history of the applicant is collected and maintained on separate forms and in separate medical files and is treated as a confidential medical record, except that—

(i) supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations;

(ii) first aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment; and

(iii) government officials investigating compliance with this Act shall be provided relevant information on request; and

(C) the results of such examination are used only in accordance with this title.

(4) Examination and inquiry.—

(A) Prohibited examinations and inquiries.—A covered entity shall not require a medical examination and shall not make inquiries of an employee as to whether such employee is an individual with a disability or as to the nature or severity of the disability, unless such examination or inquiry is shown to be job-related and consistent with business necessity.

(B) Acceptable examinations and inquiries.—A covered entity may conduct voluntary medical examinations, including voluntary medical histories, which are part of an employee health program available to employees at that work site. A covered entity may make inquiries into the ability of an employee to perform job-related functions.

(C) Requirement.—Information obtained under subparagraph (B) regarding the medical condition or history of any employee are subject to the requirements of subparagraphs (B) and (C) of paragraph (3).

SEC. 103. [42 U.S.C. 12113] DEFENSES.

(a) In General.—It may be a defense to a charge of discrimination under this Act that an alleged application of qualification standards, tests, or selection criteria that screen out or tend to screen out or otherwise deny a job or benefit to an individual with a disability has been shown to be job-related and consistent with business necessity, and such performance cannot be accomplished by reasonable accommodation, as required under this title.

(b) Qualification Standards.—The term "qualification standards" may include a requirement that an individual shall not pose a direct threat to the health or safety of other individuals in the workplace.

(c) Religious Entities.—

(1) In general.—This title shall not prohibit a religious corporation, association, educational institution, or society from giving preference in employment to individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its activities.

(2) Religious tenets requirement.—Under this title, a religious organization may require that all applicants and employees conform to the religious tenets of such organization.

(d) List of Infectious and Communicable Diseases.—

(1) In general.—The Secretary of Health and Human Services, not later than 6 months after the date of enactment of this Act, shall—

(A) review all infectious and communicable diseases which may be transmitted through handling the food supply;

(B) publish a list of infectious and communicable diseases which are transmitted through handling the food supply;

(C) publish the methods by which such diseases are transmitted; and

(D) widely disseminate such information regarding the list of diseases and their modes of transmissability to the general public.

Such list shall be updated annually.

(2) Applications.—In any case in which an individual has an infectious or communicable disease that is transmitted to others through the handling of food, that is included on the list developed by the Secretary of Health and Human Services under paragraph (1), and which cannot be eliminated by reasonable accommodation, a covered entity may refuse to assign or continue to assign such individual to a job involving food handling.

(3) Construction.—Nothing in this Act shall be construed to preempt, modify, or amend any State, county, or local law, ordinance, or regulation applicable to food handling which is designed to protect the public health from individuals who pose a significant risk to the health or safety of others, which cannot be eliminated by reasonable accommodation, pursuant to the list of infectious or communicable diseases and the modes of transmissability published by the Secretary of Health and Human Services.

SEC. 104. [42 U.S.C. 12114] ILLEGAL USE OF DRUGS AND ALCOHOL.

(a) Qualified Individual With a Disability.—For purposes of this title, the term "qualified individual with a disability" shall not include any employee or applicant who is currently engaging in the illegal use of drugs, when the covered entity acts on the basis of such use.

(b) RULES OF CONSTRUCTION.—Nothing in subsection (a) shall be construed to exclude as a qualified individual with a disability an individual who—

(1) has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;

(2) is participating in a supervised rehabilitation program and is no longer engaging in such use; or

(3) is erroneously regarded as engaging in such use, but is not engaging in such use;

except that it shall not be a violation of this Act for a covered entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in paragraph (1) or (2) is no longer engaging in the illegal use of drugs.

(c) AUTHORITY OF COVERED ENTITY.—A covered entity—

(1) may prohibit the illegal use of drugs and the use of alcohol at the workplace by all employees;

(2) may require that employees shall not be under the influence of alcohol or be engaging in the illegal use of drugs at the workplace;

(3) may require that employees behave in conformance with the requirements established under the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq.);

(4) may hold an employee who engages in the illegal use of drugs or who is an alcoholic to the same qualification standards for employment or job performance and behavior that such entity holds other employees, even if any unsatisfactory performance or behavior is related to the drug use or alcoholism of such employee; and

(5) may, with respect to Federal regulations regarding alcohol and the illegal use of drugs, require that—

(A) employees comply with the standards established in such regulations of the Department of Defense, if the employees of the covered entity are employed in an industry subject to such regulations, including complying with regulations (if any) that apply to employment in sensitive positions in such an industry, in the case of employees of the covered entity who are employed in such positions (as defined in the regulations of the Department of Defense);

(B) employees comply with the standards established in such regulations of the Nuclear Regulatory Commission, if the employees of the covered entity are employed in an industry subject to such regulations, including complying with regulations (if any) that apply to employment in sensitive positions in such an industry, in the case of employees of the covered entity who are employed in such positions (as defined in the regulations of the Nuclear Regulatory Commission); and

(C) employees comply with the standards established in such regulations of the Department of Transportation, if the employees of the covered entity are employed in a transportation industry subject to such regulations, including complying with such regulations (if any) that apply to employment in sensitive positions in such an industry, in the case of employees of the covered entity who are employed in such positions (as defined in the regulations of the Department of Transportation).

(d) Drug Testing.—

(1) In general.—For purposes of this title, a test to determine the illegal use of drugs shall not be considered a medical examination.

(2) Construction.—Nothing in this title shall be construed to encourage, prohibit, or authorize the conducting of drug testing for the illegal use of drugs by job applicants or employees or making employment decisions based on such test results.

(e) Transportation Employees.—Nothing in this title shall be construed to encourage, prohibit, restrict, or authorize the otherwise lawful exercise by entities subject to the jurisdiction of the Department of Transportation of authority to—

(1) test employees of such entities in, and applicants for, positions involving safety-sensitive duties for the illegal use of drugs and for on-duty impairment by alcohol; and

(2) remove such persons who test positive for illegal use of drugs and on-duty impairment by alcohol pursuant to paragraph (1) from safety-sensitive duties in implementing subsection (c).

SEC. 105. [42 U.S.C. 12115] POSTING NOTICES.

Every employer, employment agency, labor organization, or joint labor-management committee covered under this title shall post notices in an accessible format to applicants, employees, and members describing the applicable provisions of this Act, in the manner prescribed by section 711 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–10).

SEC. 106. [42 U.S.C. 12116] REGULATIONS.

Not later than 1 year after the date of enactment of this Act, the Commission shall issue regulations in an accessible format to carry out this title in accordance with subchapter II of chapter 5 of title 5, United States Code.

SEC. 107. [42 U.S.C. 12117] ENFORCEMENT.

(a) Powers, Remedies, and Procedures.—The powers, remedies, and procedures set forth in sections 705, 706, 707, 709, and 710 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–4, 2000e–5, 2000e–6, 2000e–8, and 2000e–9) shall be the powers, remedies, and procedures this title provides to the Commission, to the Attorney General, or to any person alleging discrimination on the basis of disability in violation of any provision of this Act, or regulations promulgated under section 106, concerning employment.

(b) Coordination.—The agencies with enforcement authority for actions which allege employment discrimination under this title and under the Rehabilitation Act of 1973 shall develop procedures to ensure that administrative complaints filed under this title and under the Rehabilitation Act of 1973 are dealt with in a manner that avoids duplication of effort and prevents imposition of inconsistent or conflicting standards for the same requirements under this title and the Rehabilitation Act of 1973. The Commission, the Attorney General, and the Office of Federal Contract Compliance Programs shall establish such coordinating mechanisms (similar to provisions contained in the joint regulations promulgated by the Commission and the Attorney General at part 42 of title 28 and part 1691 of title 29, Code of Federal Regulations, and the Memorandum of Understanding between the Commission and the Office of Federal Contract Compliance Programs dated January 16, 1981 (46 Fed. Reg. 7435, January 23, 1981)) in regulations implementing this title and Rehabilitation Act of 1973 not later than 18 months after the date of enactment of this Act.

SEC. 108. [42 U.S.C. 12111 nt] EFFECTIVE DATE.

This title shall become effective 24 months after the date of enactment.

TITLE II—PUBLIC SERVICES

Subtitle A—Prohibition Against Discrimination and Other Generally Applicable Provisions

SEC. 201. [42 U.S.C. 12131] DEFINITION.

As used in this title:

(1) PUBLIC ENTITY.—The term "public entity" means—

(A) any State or local government;

(B) any department, agency, special purpose district, or other instrumentality of a State or States or local government; and

(C) the National Railroad Passenger Corporation, and any commuter authority (as defined in section 103(8) of the Rail Passenger Service Act).

(2) QUALIFIED INDIVIDUAL WITH A DISABILITY.—The term "qualified individual with a disability" means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.

SEC. 202. [42 U.S.C. 12132] DISCRIMINATION.

Subject to the provisions of this title, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.

SEC. 203. [42 U.S.C. 12133] ENFORCEMENT.

The remedies, procedures, and rights set forth in section 505 of the Rehabilitation Act of 1973 (29 U.S.C. 794a) shall be the remedies, procedures, and rights this title provides to any person alleging discrimination on the basis of disability in violation of section 202.

SEC. 204. [42 U.S.C. 12134] REGULATIONS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Attorney General shall promulgate regulations in an accessible format that implement this subtitle. Such regulations shall not include any matter within the scope of the authority of the Secretary of Transportation under section 223, 229, or 244.

(b) RELATIONSHIP TO OTHER REGULATIONS.—Except for "program accessibility, existing facilities", and "communications", regulations under subsection (a) shall be consistent with this Act and with the coordination regulations under part 41 of title 28, Code of Federal Regulations (as promulgated by the Department of Health, Education, and Welfare on January 13, 1978), applicable to recipients of Federal financial assistance under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794). With respect to "program accessibility, existing facilities", and "communications", such regulations shall be consistent with regulations and analysis as in part 39 of title 28 of the Code of Federal Regulations, applicable to federally conducted activities under such section 504.

(c) STANDARDS.—Regulations under subsection (a) shall include standards applicable to facilities and vehicles covered by this subtitle, other than facilities, stations, rail passenger cars, and vehicles covered by subtitle B. Such standards shall be consistent with the minimum guidelines and requirements issued by the Architectural and Transportation Barriers Compliance Board in accordance with section 504(a) of this Act.

SEC. 205. [42 U.S.C. 12131 nt] EFFECTIVE DATE.

(a) GENERAL RULE.—Except as provided in subsection (b), this subtitle shall become effective 18 months after the date of enactment of this Act.

(b) EXCEPTION.—Section 204 shall become effective on the date of enactment of this Act.

Subtitle B—Actions Applicable to Public Transportation Provided by Public Entities Considered Discriminatory

PART I—PUBLIC TRANSPORTATION OTHER THAN BY AIRCRAFT OR CERTAIN RAIL OPERATIONS

SEC. 221. [42 U.S.C. 12141] DEFINITIONS.

As used in this part:

(1) DEMAND RESPONSIVE SYSTEM.—The term "demand responsive system" means any system of providing designated public transportation which is not a fixed route system.

(2) DESIGNATED PUBLIC TRANSPORTATION.—The term "designated public transportation" means transportation (other than public school transportation) by bus, rail, or any other conveyance (other than transportation by aircraft or intercity or commuter rail transportation (as defined in section 241)) that provides the general public with general or special service (including charter service) on a regular and continuing basis.

(3) Fixed route system.—The term "fixed route system" means a system of providing designated public transportation on which a vehicle is operated along a prescribed route according to a fixed schedule.

(4) Operates.—The term "operates", as used with respect to a fixed route system or demand responsive system, includes operation of such system by a person under a contractual or other arrangement or relationship with a public entity.

(5) Public school transportation.—The term "public school transportation" means transportation by schoolbus vehicles of schoolchildren, personnel, and equipment to and from a public elementary or secondary school and school-related activities.

(6) Secretary.—The term "Secretary" means the Secretary of Transportation.

SEC. 222. [42 U.S.C. 12142] PUBLIC ENTITIES OPERATING FIXED ROUTE SYSTEMS.

(a) Purchase and Lease of New Vehicles.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a public entity which operates a fixed route system to purchase or lease a new bus, a new rapid rail vehicle, a new light rail vehicle, or any other new vehicle to be used on such system, if the solicitation for such purchase or lease is made after the 30th day following the effective date of this subsection and if such bus, rail vehicle, or other vehicle is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(b) Purchase and Lease of Used Vehicles.—Subject to subsection (c)(1), it shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a public entity which operates a fixed route system to purchase or lease, after the 30th day following the effective date of this subsection, a used vehicle for use on such system unless such entity makes demonstrated good faith efforts to purchase or lease a used vehicle for use on such system that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(c) Remanufactured Vehicles.—

(1) General rule.—Except as provided in paragraph (2), it shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a public entity which operates a fixed route system—

(A) to remanufacture a vehicle for use on such system so as to extend its usable life for 5 years or more, which remanufacture begins (or for which the solicitation is made) after the 30th day following the effective date of this subsection; or

(B) to purchase or lease for use on such system a remanufactured vehicle which has been remanufactured so as to extend its usable life for 5 years or more, which purchase or lease occurs after such 30th day and during the period in which the usable life is extended;

unless, after remanufacture, the vehicle is, to the maximum extent feasible, readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(2) EXCEPTION FOR HISTORIC VEHICLES.—

(A) GENERAL RULE.—If a public entity operates a fixed route system any segment of which is included on the National Register of Historic Places and if making a vehicle of historic character to be used solely on such segment readily accessible to and usable by individuals with disabilities would significantly alter the historic character of such vehicle, the public entity only has to make (or to purchase or lease a remanufactured vehicle with) those modifications which are necessary to meet the requirements of paragraph (1) and which do not significantly alter the historic character of such vehicle.

(B) VEHICLES OF HISTORIC CHARACTER DEFINED BY REGULATIONS.—For purposes of this paragraph and section 228(b), a vehicle of historic character shall be defined by the regulations issued by the Secretary to carry out this subsection.

SEC. 223. [42 U.S.C. 12143] PARATRANSIT AS A COMPLEMENT TO FIXED ROUTE SERVICE.

(a) GENERAL RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a public entity which operates a fixed route system (other than a system which provides solely commuter bus service) to fail to provide with respect to the operations of its fixed route system, in accordance with this section, paratransit and other special transportation services to individuals with disabilities, including individuals who use wheelchairs, that are sufficient to provide to such individuals a level of service (1) which is comparable to the level of designated public transportation services provided to individuals without disabilities using such system; or (2) in the case of response time, which is comparable, to the extent practicable, to the level of designated public transportation services provided to individuals without disabilities using such system.

(b) ISSUANCE OF REGULATIONS.—Not later than 1 year after the effective date of this subsection, the Secretary shall issue final regulations to carry out this section.

(c) REQUIRED CONTENTS OF REGULATIONS.—

(1) ELIGIBLE RECIPIENTS OF SERVICE.—The regulations issued under this section shall require each public entity which operates a fixed route system to provide the paratransit and other special transportation services required under this section—

(A)(i) to any individual with a disability who is unable, as a result of a physical or mental impairment (including a vision impairment) and without the assistance of another individual (except an operator of a wheelchair lift or other boarding assistance device), to board, ride, or disembark from any vehicle on the system which is readily accessible to and usable by individuals with disabilities;

(ii) to any individual with a disability who needs the assistance of a wheelchair lift or other boarding assistance device (and is able with such assistance) to board, ride, and disembark from any vehicle which is readily accessible to and usable by individuals with disabilities if the individual wants to travel on a route on the system during the hours of operation of the system at a time (or within a reasonable period of such time) when such a vehicle is not being used to provide designated public transportation on the route; and

(iii) to any individual with a disability who has a specific impairment-related condition which prevents such individual from traveling to a boarding location or from a disembarking location on such system;

(B) to one other individual accompanying the individual with the disability; and

(C) to other individuals, in addition to the one individual described in subparagraph (B), accompanying the individual with a disability provided that space for these additional individuals is available on the paratransit vehicle carrying the individual with a disability and that the transportation of such additional individuals will not result in a denial of service to individuals with disabilities.

For purposes of clauses (i) and (ii) of subparagraph (A), boarding or disembarking from a vehicle does not include travel to the boarding location or from the disembarking location.

(2) Service area.—The regulations issued under this section shall require the provision of paratransit and special transportation services required under this section in the service area of each public entity which operates a fixed route system, other than any portion of the service area in which the public entity solely provides commuter bus service.

(3) Service criteria.—Subject to paragraphs (1) and (2), the regulations issued under this section shall establish minimum service criteria for determining the level of services to be required under this section.

(4) Undue financial burden limitation.—The regulations issued under this section shall provide that, if the public entity is able to demonstrate to the satisfaction of the Secretary that the provision of paratransit and other special transportation services otherwise required under this section would impose an undue financial burden on the public entity, the public entity, notwithstanding any other provision of this section (other than paragraph (5)), shall only be required to provide such services to the extent that providing such services would not impose such a burden.

(5) Additional services.—The regulations issued under this section shall establish circumstances under which the Secretary may require a public entity to provide, notwithstanding paragraph (4), paratransit and other special transportation services under this section beyond the level of paratransit and other special transportation services which would otherwise be required under paragraph (4).

(6) Public participation.—The regulations issued under this section shall require that each public entity which operates a fixed route system hold a public hearing, provide an opportunity for public comment, and consult with individuals with disabilities in preparing its plan under paragraph (7).

(7) Plans.—The regulations issued under this section shall require that each public entity which operates a fixed route system—

(A) within 18 months after the effective date of this subsection, submit to the Secretary, and commence implementation of, a plan for providing paratransit and other special transportation services which meets the requirements of this section; and

(B) on an annual basis thereafter, submit to the Secretary, and commence implementation of, a plan for providing such services.

(8) Provision of services by others.—The regulations issued under this section shall—

(A) require that a public entity submitting a plan to the Secretary under this section identify in the plan any person or other public entity which is providing a paratransit or other special transportation service for individuals with disabilities in the service area to which the plan applies; and

(B) provide that the public entity submitting the plan does not have to provide under the plan such service for individuals with disabilities.

(9) Other provisions.—The regulations issued under this section shall include such other provisions and requirements as the Secretary determines are necessary to carry out the objectives of this section.

(d) Review of Plan.—

(1) General rule.—The Secretary shall review a plan submitted under this section for the purpose of determining whether or not such plan meets the requirements of this section, including the regulations issued under this section.

(2) Disapproval.—If the Secretary determines that a plan reviewed under this subsection fails to meet the requirements of this section, the Secretary shall disapprove the plan and notify the public entity which submitted the plan of such disapproval and the reasons therefor.

(3) Modification of disapproved plan.—Not later than 90 days after the date of disapproval of a plan under this subsection, the public entity which submitted the plan shall modify the plan to meet the requirements of this section and shall submit to the Secretary, and commence implementation of, such modified plan.

(e) Discrimination Defined.—As used in subsection (a), the term "discrimination" includes—

(1) a failure of a public entity to which the regulations issued under this section apply to submit, or commence implementation of, a plan in accordance with subsections (c)(6) and (c)(7);

(2) a failure of such entity to submit, or commence implementation of, a modified plan in accordance with subsection (d)(3);

(3) submission to the Secretary of a modified plan under subsection (d)(3) which does not meet the requirements of this section; or

(4) a failure of such entity to provide paratransit or other special transportation services in accordance with the plan or modified plan the public entity submitted to the Secretary under this section.

(f) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as preventing a public entity—

(1) from providing paratransit or other special transportation services at a level which is greater than the level of such services which are required by this section,

(2) from providing paratransit or other special transportation services in addition to those paratransit and special transportation services required by this section, or

(3) from providing such services to individuals in addition to those individuals to whom such services are required to be provided by this section.

SEC. 224. [42 U.S.C. 12144] PUBLIC ENTITY OPERATING A DEMAND RESPONSIVE SYSTEM.

If a public entity operates a demand responsive system, it shall be considered discrimination, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), for such entity to purchase or lease a new vehicle for use on such system, for which a solicitation is made after the 30th day following the effective date of this section, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless such system, when viewed in its entirety, provides a level of service to such individuals equivalent to the level of service such system provides to individuals without disabilities.

SEC. 225. [42 U.S.C. 12145] TEMPORARY RELIEF WHERE LIFTS ARE UNAVAILABLE.

(a) GRANTING.—With respect to the purchase of new buses, a public entity may apply for, and the Secretary may temporarily relieve such public entity from the obligation under section 222(a) or 224 to purchase new buses that are readily accessible to and usable by individuals with disabilities if such public entity demonstrates to the satisfaction of the Secretary—

(1) that the initial solicitation for new buses made by the public entity specified that all new buses were to be lift-equipped and were to be otherwise accessible to and usable by individuals with disabilities;

(2) the unavailability from any qualified manufacturer of hydraulic, electromechanical, or other lifts for such new buses;

(3) that the public entity seeking temporary relief has made good faith efforts to locate a qualified manufacturer to supply the lifts to the manufacturer of such buses in sufficient time to comply with such solicitation; and

(4) that any further delay in purchasing new buses necessary to obtain such lifts would significantly impair transportation services in the community served by the public entity.

(b) DURATION AND NOTICE TO CONGRESS.—Any relief granted under subsection (a) shall be limited in duration by a specified date, and the appropriate committees of Congress shall be notified of any such relief granted.

(c) FRAUDULENT APPLICATION.—If, at any time, the Secretary has reasonable cause to believe that any relief granted under subsection (a) was fraudulently applied for, the Secretary shall—

(1) cancel such relief if such relief is still in effect; and

(2) take such other action as the Secretary considers appropriate.

SEC. 226. [42 U.S.C. 12146] NEW FACILITIES.

For purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), it shall be considered discrimination for a public entity to construct a new facility to be used in the provision of designated public transportation services unless such facility is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

SEC. 227. [42 U.S.C. 12147] ALTERATIONS OF EXISTING FACILITIES.

(a) GENERAL RULE.—With respect to alterations of an existing facility or part thereof used in the provision of designated public transportation services that affect or could affect the usability of the facility or part thereof, it shall be considered discrimination, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), for a public entity to fail to make such alterations (or to ensure that the alterations are made) in such a manner that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon the completion of such alterations. Where the public entity is undertaking an alteration that affects or could affect usability of or access to an area of the facility containing a primary function, the entity shall also make the alterations in such a manner that, to the maximum extent feasible, the path of travel to the altered area and the bathrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon completion of such alterations, where such alterations to the path of travel or the bathrooms, telephones, and drinking fountains serving the altered area are not disproportionate to the overall alterations in terms of cost and scope (as determined under criteria established by the Attorney General).

(b) SPECIAL RULE FOR STATIONS.—

(1) GENERAL RULE.—For purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), it shall be considered discrimination for a public entity that provides designated public transportation to fail, in accordance with the provisions of this subsection, to make key stations (as determined under criteria established by the Secretary by regulation) in rapid rail and light rail systems read-

ily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(2) RAPID RAIL AND LIGHT RAIL KEY STATIONS.—

(A) ACCESSIBILITY.—Except as otherwise provided in this paragraph, all key stations (as determined under criteria established by the Secretary by regulation) in rapid rail and light rail systems shall be made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as soon as practicable but in no event later than the last day of the 3-year period beginning on the effective date of this paragraph.

(B) EXTENSION FOR EXTRAORDINARILY EXPENSIVE STRUCTURAL CHANGES.—The Secretary may extend the 3-year period under subparagraph (A) up to a 30-year period for key stations in a rapid rail or light rail system which stations need extraordinarily expensive structural changes to, or replacement of, existing facilities; except that by the last day of the 20th year following the date of the enactment of this Act at least ⅔ of such key stations must be readily accessible to and usable by individuals with disabilities.

(3) PLANS AND MILESTONES.—The Secretary shall require the appropriate public entity to develop and submit to the Secretary a plan for compliance with this subsection—

(A) that reflects consultation with individuals with disabilities affected by such plan and the results of a public hearing and public comments on such plan, and

(B) that establishes milestones for achievement of the requirements of this subsection.

SEC. 228. [42 U.S.C. 12148] PUBLIC TRANSPORTATION PROGRAMS AND ACTIVITIES IN EXISTING FACILITIES AND ONE CAR PER TRAIN RULE.

(a) PUBLIC TRANSPORTATION PROGRAMS AND ACTIVITIES IN EXISTING FACILITIES.—

(1) IN GENERAL.—With respect to existing facilities used in the provision of designated public transportation services, it shall be considered discrimination, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), for a public entity to fail to operate a designated public transportation program or activity conducted in such facilities so that, when viewed in the entirety, the program or activity is readily accessible to and usable by individuals with disabilities.

(2) EXCEPTION.—Paragraph (1) shall not require a public entity to make structural changes to existing facilities in order to make such facilities accessible to individuals who use wheelchairs, unless and to the extent required by section 227(a) (relating to alterations) or section 227(b) (relating to key stations).

(3) UTILIZATION.—Paragraph (1) shall not require a public entity to which paragraph (2) applies, to provide to individuals who use wheelchairs services made available to the general

public at such facilities when such individuals could not utilize or benefit from such services provided at such facilities.

(b) ONE CAR PER TRAIN RULE.—

(1) GENERAL RULE.—Subject to paragraph (2), with respect to 2 or more vehicles operated as a train by a light or rapid rail system, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), it shall be considered discrimination for a public entity to fail to have at least 1 vehicle per train that is accessible to individuals with disabilities, including individuals who use wheelchairs, as soon as practicable but in no event later than the last day of the 5-year period beginning on the effective date of this section.

(2) HISTORIC TRAINS.—In order to comply with paragraph (1) with respect to the remanufacture of a vehicle of historic character which is to be used on a segment of a light or rapid rail system which is included on the National Register of Historic Places, if making such vehicle readily accessible to and usable by individuals with disabilities would significantly alter the historic character of such vehicle, the public entity which operates such system only has to make (or to purchase or lease a remanufactured vehicle with) those modifications which are necessary to meet the requirements of section 222(c)(1) and which do not significantly alter the historic character of such vehicle.

SEC. 229. [42 U.S.C. 12149] REGULATIONS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall issue regulations, in an accessible format, necessary for carrying out this part (other than section 223).

(b) STANDARDS.—The regulations issued under this section and section 223 shall include standards applicable to facilities and vehicles covered by this subtitle. The standards shall be consistent with the minimum guidelines and requirements issued by the Architectural and Transportation Barriers Compliance Board in accordance with section 504 of this Act.

SEC. 230. [42 U.S.C. 12150] INTERIM ACCESSIBILITY REQUIREMENTS.

If final regulations have not been issued pursuant to section 229, for new construction or alterations for which a valid and appropriate State or local building permit is obtained prior to the issuance of final regulations under such section, and for which the construction or alteration authorized by such permit begins within one year of the receipt of such permit and is completed under the terms of such permit, compliance with the Uniform Federal Accessibility Standards in effect at the time the building permit is issued shall suffice to satisfy the requirement that facilities be readily accessible to and usable by persons with disabilities as required under sections 226 and 227, except that, if such final regulations have not been issued one year after the Architectural and Transportation Barriers Compliance Board has issued the supplemental minimum guidelines required under section 504(a) of this Act, compliance with such supplemental minimum guidelines shall be necessary to satisfy the requirement that facilities be readily accessible to and usable by persons with disabilities prior to issuance of the final regulations.

SEC. 231. [42 U.S.C. 12141 nt] EFFECTIVE DATE.

(a) GENERAL RULE.—Except as provided in subsection (b), this part shall become effective 18 months after the date of enactment of this Act.

(b) EXCEPTION.—Sections 222, 223 (other than subsection (a)), 224, 225, 227(b), 228(b), and 229 shall become effective on the date of enactment of this Act.

PART II—PUBLIC TRANSPORTATION BY INTERCITY AND COMMUTER RAIL

SEC. 241. [42 U.S.C. 12161] DEFINITIONS.

As used in this part:

(1) COMMUTER AUTHORITY.—The term "commuter authority" has the meaning given such term in section 103(8) of the Rail Passenger Service Act (45 U.S.C. 502(8)).

(2) COMMUTER RAIL TRANSPORTATION.—The term "commuter rail transportation" has the meaning given the term "commuter service" in section 103(9) of the Rail Passenger Service Act (45 U.S.C. 502(9)).

(3) INTERCITY RAIL TRANSPORTATION.—The term "intercity rail transportation" means transportation provided by the National Railroad Passenger Corporation.

(4) RAIL PASSENGER CAR.—The term "rail passenger car" means, with respect to intercity rail transportation, single-level and bi-level coach cars, single-level and bi-level dining cars, single-level and bi-level sleeping cars, single-level and bi-level lounge cars, and food service cars.

(5) RESPONSIBLE PERSON.—The term "responsible person" means—

(A) in the case of a station more than 50 percent of which is owned by a public entity, such public entity;

(B) in the case of a station more than 50 percent of which is owned by a private party, the persons providing intercity or commuter rail transportation to such station, as allocated on an equitable basis by regulation by the Secretary of Transportation; and

(C) in a case where no party owns more than 50 percent of a station, the persons providing intercity or commuter rail transportation to such station and the owners of the station, other than private party owners, as allocated on an equitable basis by regulation by the Secretary of Transportation.

(6) STATION.—The term "station" means the portion of a property located appurtenant to a right-of-way on which intercity or commuter rail transportation is operated, where such portion is used by the general public and is related to the provision of such transportation, including passenger platforms, designated waiting areas, ticketing areas, restrooms, and, where a public entity providing rail transportation owns the property, concession areas, to the extent that such public entity exercises control over the selection, design, construction, or al-

teration of the property, but such term does not include flag stops.

SEC. 242. [42 U.S.C. 12162] INTERCITY AND COMMUTER RAIL ACTIONS CONSIDERED DISCRIMINATORY.

(a) INTERCITY RAIL TRANSPORTATION.—

(1) ONE CAR PER TRAIN RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person who provides intercity rail transportation to fail to have at least one passenger car per train that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, in accordance with regulations issued under section 244, as soon as practicable, but in no event later than 5 years after the date of enactment of this Act.

(2) NEW INTERCITY CARS.—

(A) GENERAL RULE.—Except as otherwise provided in this subsection with respect to individuals who use wheelchairs, it shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to purchase or lease any new rail passenger cars for use in intercity rail transportation, and for which a solicitation is made later than 30 days after the effective date of this section, unless all such rail cars are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(B) SPECIAL RULE FOR SINGLE-LEVEL PASSENGER COACHES FOR INDIVIDUALS WHO USE WHEELCHAIRS.—Single-level passenger coaches shall be required to—

(i) be able to be entered by an individual who uses a wheelchair;

(ii) have space to park and secure a wheelchair;

(iii) have a seat to which a passenger in a wheelchair can transfer, and a space to fold and store such passenger's wheelchair; and

(iv) have a restroom usable by an individual who uses a wheelchair,

only to the extent provided in paragraph (3).

(C) SPECIAL RULE FOR SINGLE-LEVEL DINING CARS FOR INDIVIDUALS WHO USE WHEELCHAIRS.—Single-level dining cars shall not be required to—

(i) be able to be entered from the station platform by an individual who uses a wheelchair; or

(ii) have a restroom usable by an individual who uses a wheelchair if no restroom is provided in such car for any passenger.

(D) SPECIAL RULE FOR BI-LEVEL DINING CARS FOR INDIVIDUALS WHO USE WHEELCHAIRS.—Bi-level dining cars shall not be required to—

(i) be able to be entered by an individual who uses a wheelchair;

(ii) have space to park and secure a wheelchair;

(iii) have a seat to which a passenger in a wheelchair can transfer, or a space to fold and store such passenger's wheelchair; or

(iv) have a restroom usable by an individual who uses a wheelchair.

(3) ACCESSIBILITY OF SINGLE-LEVEL COACHES.—

(A) GENERAL RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person who provides intercity rail transportation to fail to have on each train which includes one or more single-level rail passenger coaches—

(i) a number of spaces—

(I) to park and secure wheelchairs (to accommodate individuals who wish to remain in their wheelchairs) equal to not less than one-half of the number of single-level rail passenger coaches in such train; and

(II) to fold and store wheelchairs (to accommodate individuals who wish to transfer to coach seats) equal to not less than one-half of the number of single-level rail passenger coaches in such train,

as soon as practicable, but in no event later than 5 years after the date of enactment of this Act; and

(ii) a number of spaces—

(I) to park and secure wheelchairs (to accommodate individuals who wish to remain in their wheelchairs) equal to not less than the total number of single-level rail passenger coaches in such train; and

(II) to fold and store wheelchairs (to accommodate individuals who wish to transfer to coach seats) equal to not less than the total number of single-level rail passenger coaches in such train,

as soon as practicable, but in no event later than 10 years after the date of enactment of this Act.

(B) LOCATION.—Spaces required by subparagraph (A) shall be located in single-level rail passenger coaches or food service cars.

(C) LIMITATION.—Of the number of spaces required on a train by subparagraph (A), not more than two spaces to park and secure wheelchairs nor more than two spaces to fold and store wheelchairs shall be located in any one coach or food service car.

(D) OTHER ACCESSIBILITY FEATURES.—Single-level rail passenger coaches and food service cars on which the spaces required by subparagraph (A) are located shall have a restroom usable by an individual who uses a wheelchair and shall be able to be entered from the station platform by an individual who uses a wheelchair.

(4) FOOD SERVICE.—

(A) SINGLE-LEVEL DINING CARS.—On any train in which a single-level dining car is used to provide food service—

(i) if such single-level dining car was purchased after the date of enactment of this Act, table service in such car shall be provided to a passenger who uses a wheelchair if—

(I) the car adjacent to the end of the dining car through which a wheelchair may enter is itself accessible to a wheelchair;

(II) such passenger can exit to the platform from the car such passenger occupies, move down the platform, and enter the adjacent accessible car described in subclause (I) without the necessity of the train being moved within the station; and

(III) space to park and secure a wheelchair is available in the dining car at the time such passenger wishes to eat (if such passenger wishes to remain in a wheelchair), or space to store and fold a wheelchair is available in the dining car at the time such passenger wishes to eat (if such passenger wishes to transfer to a dining car seat); and

(ii) appropriate auxiliary aids and services, including a hard surface on which to eat, shall be provided to ensure that other equivalent food service is available to individuals with disabilities, including individuals who use wheelchairs, and to passengers traveling with such individuals.

Unless not practicable, a person providing intercity rail transportation shall place an accessible car adjacent to the end of a dining car described in clause (i) through which an individual who uses a wheelchair may enter.

(B) BI-LEVEL DINING CARS.—On any train in which a bi-level dining car is used to provide food service—

(i) if such train includes a bi-level lounge car purchased after the date of enactment of this Act, table service in such lounge car shall be provided to individuals who use wheelchairs and to other passengers; and

(ii) appropriate auxiliary aids and services, including a hard surface on which to eat, shall be provided to ensure that other equivalent food service is available to individuals with disabilities, including individuals who use wheelchairs, and to passengers traveling with such individuals.

(b) COMMUTER RAIL TRANSPORTATION.—

(1) ONE CAR PER TRAIN RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person who provides commuter rail transportation to fail to have at least one passenger car per train that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, in accordance with regulations is-

sued under section 244, as soon as practicable, but in no event later than 5 years after the date of enactment of this Act.

(2) NEW COMMUTER RAIL CARS.—

(A) GENERAL RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to purchase or lease any new rail passenger cars for use in commuter rail transportation, and for which a solicitation is made later than 30 days after the effective date of this section, unless all such rail cars are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(B) ACCESSIBILITY.—For purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), a requirement that a rail passenger car used in commuter rail transportation be accessible to or readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, shall not be construed to require—

(i) a restroom usable by an individual who uses a wheelchair if no restroom is provided in such car for any passenger;

(ii) space to fold and store a wheelchair; or

(iii) a seat to which a passenger who uses a wheelchair can transfer.

(c) USED RAIL CARS.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to purchase or lease a used rail passenger car for use in intercity or commuter rail transportation, unless such person makes demonstrated good faith efforts to purchase or lease a used rail car that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(d) REMANUFACTURED RAIL CARS.—

(1) REMANUFACTURING.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to remanufacture a rail passenger car for use in intercity or commuter rail transportation so as to extend its usable life for 10 years or more, unless the rail car, to the maximum extent feasible, is made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(2) PURCHASE OR LEASE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to purchase or lease a remanufactured rail passenger car for use in intercity or commuter rail transportation unless such car was remanufactured in accordance with paragraph (1).

(e) STATIONS.—

(1) NEW STATIONS.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to build a new station for use in intercity or commuter rail transportation that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(2) EXISTING STATIONS.—

(A) FAILURE TO MAKE READILY ACCESSIBLE.—

(i) GENERAL RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a responsible person to fail to make existing stations in the intercity rail transportation system, and existing key stations in commuter rail transportation systems, readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(ii) PERIOD FOR COMPLIANCE.—

(I) INTERCITY RAIL.—All stations in the intercity rail transportation system shall be made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as soon as practicable, but in no event later than 20 years after the date of enactment of this Act.

(II) COMMUTER RAIL.—Key stations in commuter rail transportation systems shall be made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as soon as practicable but in no event later than 3 years after the date of enactment of this Act, except that the time limit may be extended by the Secretary of Transportation up to 20 years after the date of enactment of this Act in a case where the raising of the entire passenger platform is the only means available of attaining accessibility or where other extraordinarily expensive structural changes are necessary to attain accessibility.

(iii) DESIGNATION OF KEY STATIONS.—Each commuter authority shall designate the key stations in its commuter rail transportation system, in consultation with individuals with disabilities and organizations representing such individuals, taking into consideration such factors as high ridership and whether such station serves as a transfer or feeder station. Before the final designation of key stations under this clause, a commuter authority shall hold a public hearing.

(iv) PLANS AND MILESTONES.—The Secretary of Transportation shall require the appropriate person to develop a plan for carrying out this subparagraph that reflects consultation with individuals with disabilities affected by such plan and that establishes milestones for achievement of the requirements of this subparagraph.

(B) Requirement when making alterations.—

(i) General rule.—It shall be considered discrimination, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), with respect to alterations of an existing station or part thereof in the intercity or commuter rail transportation systems that affect or could affect the usability of the station or part thereof, for the responsible person, owner, or person in control of the station to fail to make the alterations in such a manner that, to the maximum extent feasible, the altered portions of the station are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon completion of such alterations.

(ii) Alterations to a primary function area.—It shall be considered discrimination, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), with respect to alterations that affect or could affect the usability of or access to an area of the station containing a primary function, for the responsible person, owner, or person in control of the station to fail to make the alterations in such a manner that, to the maximum extent feasible, the path of travel to the altered area, and the bathrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon completion of such alterations, where such alterations to the path of travel or the bathrooms, telephones, and drinking fountains serving the altered area are not disproportionate to the overall alterations in terms of cost and scope (as determined under criteria established by the Attorney General).

(C) Required cooperation.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for an owner, or person in control, of a station governed by subparagraph (A) or (B) to fail to provide reasonable cooperation to a responsible person with respect to such station in that responsible person's efforts to comply with such subparagraph. An owner, or person in control, of a station shall be liable to a responsible person for any failure to provide reasonable cooperation as required by this subparagraph. Failure to receive reasonable cooperation required by this subparagraph shall not be a defense to a claim of discrimination under this Act.

SEC. 243. [42 U.S.C. 12163] CONFORMANCE OF ACCESSIBILITY STANDARDS.

Accessibility standards included in regulations issued under this part shall be consistent with the minimum guidelines issued by the Architectural and Transportation Barriers Compliance Board under section 504(a) of this Act.

SEC. 244. [42 U.S.C. 12164] REGULATIONS.

Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall issue regulations, in an accessible format, necessary for carrying out this part.

SEC. 245. [42 U.S.C. 12165] INTERIM ACCESSIBILITY REQUIREMENTS.

(a) Stations.—If final regulations have not been issued pursuant to section 244, for new construction or alterations for which a valid and appropriate State or local building permit is obtained prior to the issuance of final regulations under such section, and for which the construction or alteration authorized by such permit begins within one year of the receipt of such permit and is completed under the terms of such permit, compliance with the Uniform Federal Accessibility Standards in effect at the time the building permit is issued shall suffice to satisfy the requirement that stations be readily accessible to and usable by persons with disabilities as required under section 242(e), except that, if such final regulations have not been issued one year after the Architectural and Transportation Barriers Compliance Board has issued the supplemental minimum guidelines required under section 504(a) of this Act, compliance with such supplemental minimum guidelines shall be necessary to satisfy the requirement that stations be readily accessible to and usable by persons with disabilities prior to issuance of the final regulations.

(b) Rail Passenger Cars.—If final regulations have not been issued pursuant to section 244, a person shall be considered to have complied with the requirements of section 242 (a) through (d) that a rail passenger car be readily accessible to and usable by individuals with disabilities, if the design for such car complies with the laws and regulations (including the Minimum Guidelines and Requirements for Accessible Design and such supplemental minimum guidelines as are issued under section 504(a) of this Act) governing accessibility of such cars, to the extent that such laws and regulations are not inconsistent with this part and are in effect at the time such design is substantially completed.

SEC. 246. [42 U.S.C. 12161 nt] EFFECTIVE DATE.

(a) General Rule.—Except as provided in subsection (b), this part shall become effective 18 months after the date of enactment of this Act.

(b) Exception.—Sections 242 and 244 shall become effective on the date of enactment of this Act.

TITLE III—PUBLIC ACCOMMODATIONS AND SERVICES OPERATED BY PRIVATE ENTITIES

SEC. 301. [42 U.S.C. 12181] DEFINITIONS.

As used in this title:

(1) COMMERCE.—The term "commerce" means travel, trade, traffic, commerce, transportation, or communication—

(A) among the several States;

(B) between any foreign country or any territory or possession and any State; or

(C) between points in the same State but through another State or foreign country.

(2) COMMERCIAL FACILITIES.—The term "commercial facilities" means facilities—

(A) that are intended for nonresidential use; and

(B) whose operations will affect commerce.

Such term shall not include railroad locomotives, railroad freight cars, railroad cabooses, railroad cars described in section 242 or covered under this title, railroad rights-of-way, or facilities that are covered or expressly exempted from coverage under the Fair Housing Act of 1968 (42 U.S.C. 3601 et seq.).

(3) DEMAND RESPONSIVE SYSTEM.—The term "demand responsive system" means any system of providing transportation of individuals by a vehicle, other than a system which is a fixed route system.

(4) FIXED ROUTE SYSTEM.—The term "fixed route system" means a system of providing transportation of individuals (other than by aircraft) on which a vehicle is operated along a prescribed route according to a fixed schedule.

(5) OVER-THE-ROAD BUS.—The term "over-the-road bus" means a bus characterized by an elevated passenger deck located over a baggage compartment.

(6) PRIVATE ENTITY.—The term "private entity" means any entity other than a public entity (as defined in section 201(1)).

(7) PUBLIC ACCOMMODATION.—The following private entities are considered public accommodations for purposes of this title, if the operations of such entities affect commerce—

(A) an inn, hotel, motel, or other place of lodging, except for an establishment located within a building that contains not more than five rooms for rent or hire and that is actually occupied by the proprietor of such establishment as the residence of such proprietor;

(B) a restaurant, bar, or other establishment serving food or drink;

(C) a motion picture house, theater, concert hall, stadium, or other place of exhibition or entertainment;

(D) an auditorium, convention center, lecture hall, or other place of public gathering;

(E) a bakery, grocery store, clothing store, hardware store, shopping center, or other sales or rental establishment;

(F) a laundromat, dry-cleaner, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, gas station, office of an accountant or lawyer, pharmacy, insurance office, professional office of a health care provider, hospital, or other service establishment;

(G) a terminal, depot, or other station used for specified public transportation;

(H) a museum, library, gallery, or other place of public display or collection;

(I) a park, zoo, amusement park, or other place of recreation;

(J) a nursery, elementary, secondary, undergraduate, or postgraduate private school, or other place of education;

(K) a day care center, senior citizen center, homeless shelter, food bank, adoption agency, or other social service center establishment; and

(L) a gymnasium, health spa, bowling alley, golf course, or other place of exercise or recreation.

(8) Rail and railroad.—The terms "rail" and "railroad" have the meaning given the term "railroad" in section 202(e) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431(e)).

(9) Readily achievable.—The term "readily achievable" means easily accomplishable and able to be carried out without much difficulty or expense. In determining whether an action is readily achievable, factors to be considered include—

(A) the nature and cost of the action needed under this Act;

(B) the overall financial resources of the facility or facilities involved in the action; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such action upon the operation of the facility;

(C) the overall financial resources of the covered entity; the overall size of the business of a covered entity with respect to the number of its employees; the number, type, and location of its facilities; and

(D) the type of operation or operations of the covered entity, including the composition, structure, and functions of the workforce of such entity; the geographic separateness, administrative or fiscal relationship of the facility or facilities in question to the covered entity.

(10) Specified public transportation.—The term "specified public transportation" means transportation by bus, rail, or any other conveyance (other than by aircraft) that provides the general public with general or special service (including charter service) on a regular and continuing basis.

(11) Vehicle.—The term "vehicle" does not include a rail passenger car, railroad locomotive, railroad freight car, railroad caboose, or a railroad car described in section 242 or covered under this title.

SEC. 302. [42 U.S.C. 12182] PROHIBITION OF DISCRIMINATION BY PUBLIC ACCOMMODATIONS.

(a) GENERAL RULE.—No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases (or leases to), or operates a place of public accommodation.

(b) CONSTRUCTION.—

(1) GENERAL PROHIBITION.—

(A) ACTIVITIES.—

(i) DENIAL OF PARTICIPATION.—It shall be discriminatory to subject an individual or class of individuals on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements, to a denial of the opportunity of the individual or class to participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations of an entity.

(ii) PARTICIPATION IN UNEQUAL BENEFIT.—It shall be discriminatory to afford an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements with the opportunity to participate in or benefit from a good, service, facility, privilege, advantage, or accommodation that is not equal to that afforded to other individuals.

(iii) SEPARATE BENEFIT.—It shall be discriminatory to provide an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements with a good, service, facility, privilege, advantage, or accommodation that is different or separate from that provided to other individuals, unless such action is necessary to provide the individual or class of individuals with a good, service, facility, privilege, advantage, or accommodation, or other opportunity that is as effective as that provided to others.

(iv) INDIVIDUAL OR CLASS OF INDIVIDUALS.—For purposes of clauses (i) through (iii) of this subparagraph, the term "individual or class of individuals" refers to the clients or customers of the covered public accommodation that enters into the contractual, licensing or other arrangement.

(B) INTEGRATED SETTINGS.—Goods, services, facilities, privileges, advantages, and accommodations shall be afforded to an individual with a disability in the most integrated setting appropriate to the needs of the individual.

(C) OPPORTUNITY TO PARTICIPATE.—Notwithstanding the existence of separate or different programs or activities provided in accordance with this section, an individual with a disability shall not be denied the opportunity to participate in such programs or activities that are not separate or different.

(D) ADMINISTRATIVE METHODS.—An individual or entity shall not, directly or through contractual or other arrangements, utilize standards or criteria or methods of administration—

(i) that have the effect of discriminating on the basis of disability; or

(ii) that perpetuate the discrimination of others who are subject to common administrative control.

(E) ASSOCIATION.—It shall be discriminatory to exclude or otherwise deny equal goods, services, facilities, privileges, advantages, accommodations, or other opportunities to an individual or entity because of the known disability of an individual with whom the individual or entity is known to have a relationship or association.

(2) SPECIFIC PROHIBITIONS.—

(A) DISCRIMINATION.—For purposes of subsection (a), discrimination includes—

(i) the imposition or application of eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any goods, services, facilities, privileges, advantages, or accommodations, unless such criteria can be shown to be necessary for the provision of the goods, services, facilities, privileges, advantages, or accommodations being offered;

(ii) a failure to make reasonable modifications in policies, practices, or procedures, when such modifications are necessary to afford such goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the entity can demonstrate that making such modifications would fundamentally alter the nature of such goods, services, facilities, privileges, advantages, or accommodations;

(iii) a failure to take such steps as may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services, unless the entity can demonstrate that taking such steps would fundamentally alter the nature of the good, service, facility, privilege, advantage, or accommodation being offered or would result in an undue burden;

(iv) a failure to remove architectural barriers, and communication barriers that are structural in nature, in existing facilities, and transportation barriers in existing vehicles and rail passenger cars used by an establishment for transporting individuals (not including barriers that can only be removed through the retrofitting of vehicles or rail passenger cars by the installation of a hydraulic or other lift), where such removal is readily achievable; and

(v) where an entity can demonstrate that the removal of a barrier under clause (iv) is not readily achievable, a failure to make such goods, services, facilities, privileges, advantages, or accommodations available through alternative methods if such methods are readily achievable.

(B) FIXED ROUTE SYSTEM.—

(i) ACCESSIBILITY.—It shall be considered discrimination for a private entity which operates a fixed route system and which is not subject to section 304 to purchase or lease a vehicle with a seating capacity in excess of 16 passengers (including the driver) for use on such system, for which a solicitation is made after the 30th day following the effective date of this subparagraph, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(ii) EQUIVALENT SERVICE.—If a private entity which operates a fixed route system and which is not subject to section 304 purchases or leases a vehicle with a seating capacity of 16 passengers or less (including the driver) for use on such system after the effective date of this subparagraph that is not readily accessible to or usable by individuals with disabilities, it shall be considered discrimination for such entity to fail to operate such system so that, when viewed in its entirety, such system ensures a level of service to individuals with disabilities, including individuals who use wheelchairs, equivalent to the level of service provided to individuals without disabilities.

(C) DEMAND RESPONSIVE SYSTEM.—For purposes of subsection (a), discrimination includes—

(i) a failure of a private entity which operates a demand responsive system and which is not subject to section 304 to operate such system so that, when viewed in its entirety, such system ensures a level of service to individuals with disabilities, including individuals who use wheelchairs, equivalent to the level of service provided to individuals without disabilities; and

(ii) the purchase or lease by such entity for use on such system of a vehicle with a seating capacity in excess of 16 passengers (including the driver), for which solicitations are made after the 30th day following the effective date of this subparagraph, that is not readily accessible to and usable by individuals with disabilities (including individuals who use wheelchairs) unless such entity can demonstrate that such system, when viewed in its entirety, provides a level of service to individuals with disabilities equivalent to that provided to individuals without disabilities.

(D) OVER-THE-ROAD BUSES.—

(i) LIMITATION ON APPLICABILITY.—Subparagraphs (B) and (C) do not apply to over-the-road buses.

(ii) ACCESSIBILITY REQUIREMENTS.—For purposes of subsection (a), discrimination includes (I) the purchase or lease of an over-the-road bus which does not comply with the regulations issued under section 306(a)(2) by a private entity which provides transportation of individuals and which is not primarily engaged in the business of transporting people, and (II) any other failure of such entity to comply with such regulations.

(3) SPECIFIC CONSTRUCTION.—Nothing in this title shall require an entity to permit an individual to participate in or benefit from the goods, services, facilities, privileges, advantages and accommodations of such entity where such individual poses a direct threat to the health or safety of others. The term "direct threat" means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures or by the provision of auxiliary aids or services.

SEC. 303. [42 U.S.C. 12183] NEW CONSTRUCTION AND ALTERATIONS IN PUBLIC ACCOMMODATIONS AND COMMERCIAL FACILITIES.

(a) APPLICATION OF TERM.—Except as provided in subsection (b), as applied to public accommodations and commercial facilities, discrimination for purposes of section 302(a) includes—

(1) a failure to design and construct facilities for first occupancy later than 30 months after the date of enactment of this Act that are readily accessible to and usable by individuals with disabilities, except where an entity can demonstrate that it is structurally impracticable to meet the requirements of such subsection in accordance with standards set forth or incorporated by reference in regulations issued under this title; and

(2) with respect to a facility or part thereof that is altered by, on behalf of, or for the use of an establishment in a manner that affects or could affect the usability of the facility or part thereof, a failure to make alterations in such a manner that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. Where the entity is undertaking an alteration that affects or could affect usability of or access to an area of the facility containing a primary function, the entity shall also make the alterations in such a manner that, to the maximum extent feasible, the path of travel to the altered area and the bathrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities where such alterations to the path of travel or the bathrooms, telephones, and drinking fountains serving the altered area are not disproportionate to the overall alterations in terms of cost and scope (as determined under criteria established by the Attorney General).

(b) ELEVATOR.—Subsection (a) shall not be construed to require the installation of an elevator for facilities that are less than three stories or have less than 3,000 square feet per story, unless the building is a shopping center, a shopping mall, or the professional office of a health care provider or unless the Attorney General determines that a particular category of such facilities requires the installation of elevators based on the usage of such facilities.

SEC. 304. [42 U.S.C. 12184] PROHIBITION OF DISCRIMINATION IN SPECIFIED PUBLIC TRANSPORTATION SERVICES PROVIDED BY PRIVATE ENTITIES.

(a) GENERAL RULE.—No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of specified public transportation services provided by a private entity that is primarily engaged in the business of transporting people and whose operations affect commerce.

(b) CONSTRUCTION.—For purposes of subsection (a), discrimination includes—

(1) the imposition or application by a[1] entity described in subsection (a) of eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully enjoying the specified public transportation services provided by the entity, unless such criteria can be shown to be necessary for the provision of the services being offered;

(2) the failure of such entity to—

(A) make reasonable modifications consistent with those required under section 302(b)(2)(A)(ii);

(B) provide auxiliary aids and services consistent with the requirements of section 302(b)(2)(A)(iii); and

(C) remove barriers consistent with the requirements of section 302(b)(2)(A) and with the requirements of section 303(a)(2);

(3) the purchase or lease by such entity of a new vehicle (other than an automobile, a van with a seating capacity of less than 8 passengers, including the driver, or an over-the-road bus) which is to be used to provide specified public transportation and for which a solicitation is made after the 30th day following the effective date of this section, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs; except that the new vehicle need not be readily accessible to and usable by such individuals if the new vehicle is to be used solely in a demand responsive system and if the entity can demonstrate that such system, when viewed in its entirety, provides a level of service to such individuals equivalent to the level of service provided to the general public;

(4)(A) the purchase or lease by such entity of an over-the-road bus which does not comply with the regulations issued under section 306(a)(2); and[2]

(B) any other failure of such entity to comply with such regulations; and

(5) the purchase or lease by such entity of a new van with a seating capacity of less than 8 passengers, including the driv-

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[1] So in original. Probably should be "an".

[2] So in original. The word "and" probably should not appear.

er, which is to be used to provide specified public transportation and for which a solicitation is made after the 30th day following the effective date of this section that is not readily accessible to or usable by individuals with disabilities, including individuals who use wheelchairs; except that the new van need not be readily accessible to and usable by such individuals if the entity can demonstrate that the system for which the van is being purchased or leased, when viewed in its entirety, provides a level of service to such individuals equivalent to the level of service provided to the general public;

(6) the purchase or lease by such entity of a new rail passenger car that is to be used to provide specified public transportation, and for which a solicitation is made later than 30 days after the effective date of this paragraph, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs; and

(7) the remanufacture by such entity of a rail passenger car that is to be used to provide specified public transportation so as to extend its usable life for 10 years or more, or the purchase or lease by such entity of such a rail car, unless the rail car, to the maximum extent feasible, is made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(c) Historical or Antiquated Cars.—

(1) Exception.—To the extent that compliance with subsection (b)(2)(C) or (b)(7) would significantly alter the historic or antiquated character of a historical or antiquated rail passenger car, or a rail station served exclusively by such cars, or would result in violation of any rule, regulation, standard, or order issued by the Secretary of Transportation under the Federal Railroad Safety Act of 1970, such compliance shall not be required.

(2) Definition.—As used in this subsection, the term "historical or antiquated rail passenger car" means a rail passenger car—

(A) which is not less than 30 years old at the time of its use for transporting individuals;

(B) the manufacturer of which is no longer in the business of manufacturing rail passenger cars; and

(C) which—

(i) has a consequential association with events or persons significant to the past; or

(ii) embodies, or is being restored to embody, the distinctive characteristics of a type of rail passenger car used in the past, or to represent a time period which has passed.

SEC. 305. [42 U.S.C. 12185] STUDY.

(a) Purposes.—The Office of Technology Assessment shall undertake a study to determine—

(1) the access needs of individuals with disabilities to over-the-road buses and over-the-road bus service; and

(2) the most cost-effective methods for providing access to over-the-road buses and over-the-road bus service to individ-

uals with disabilities, particularly individuals who use wheelchairs, through all forms of boarding options.

(b) Contents.—The study shall include, at a minimum, an analysis of the following:

(1) The anticipated demand by individuals with disabilities for accessible over-the-road buses and over-the-road bus service.

(2) The degree to which such buses and service, including any service required under sections 304(b)(4) and 306(a)(2), are readily accessible to and usable by individuals with disabilities.

(3) The effectiveness of various methods of providing accessibility to such buses and service to individuals with disabilities.

(4) The cost of providing accessible over-the-road buses and bus service to individuals with disabilities, including consideration of recent technological and cost saving developments in equipment and devices.

(5) Possible design changes in over-the-road buses that could enhance accessibility, including the installation of accessible restrooms which do not result in a loss of seating capacity.

(6) The impact of accessibility requirements on the continuation of over-the-road bus service, with particular consideration of the impact of such requirements on such service to rural communities.

(c) Advisory Committee.—In conducting the study required by subsection (a), the Office of Technology Assessment shall establish an advisory committee, which shall consist of—

(1) members selected from among private operators and manufacturers of over-the-road buses;

(2) members selected from among individuals with disabilities, particularly individuals who use wheelchairs, who are potential riders of such buses; and

(3) members selected for their technical expertise on issues included in the study, including manufacturers of boarding assistance equipment and devices.

The number of members selected under each of paragraphs (1) and (2) shall be equal, and the total number of members selected under paragraphs (1) and (2) shall exceed the number of members selected under paragraph (3).

(d) Deadline.—The study required by subsection (a), along with recommendations by the Office of Technology Assessment, including any policy options for legislative action, shall be submitted to the President and Congress within 36 months after the date of the enactment of this Act. If the President determines that compliance with the regulations issued pursuant to section 306(a)(2)(B) on or before the applicable deadlines specified in section 306(a)(2)(B) will result in a significant reduction in intercity over-the-road bus service, the President shall extend each such deadline by 1 year.

(e) Review.—In developing the study required by subsection (a), the Office of Technology Assessment shall provide a preliminary draft of such study to the Architectural and Transportation Barriers Compliance Board established under section 502 of the

Rehabilitation Act of 1973 (29 U.S.C. 792). The Board shall have an opportunity to comment on such draft study, and any such comments by the Board made in writing within 120 days after the Board's receipt of the draft study shall be incorporated as part of the final study required to be submitted under subsection (d).

SEC. 306. [42 U.S.C. 12186] REGULATIONS.

(a) TRANSPORTATION PROVISIONS.—

(1) GENERAL RULE.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Transportation shall issue regulations in an accessible format to carry out sections[1] 302(b)(2) (B) and (C) and to carry out section 304 (other than subsection (b)(4)).

(2) SPECIAL RULES FOR PROVIDING ACCESS TO OVER-THE-ROAD BUSES.—

(A) INTERIM REQUIREMENTS.—

(i) ISSUANCE.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Transportation shall issue regulations in an accessible format to carry out sections 304(b)(4) and 302(b)(2)(D)(ii) that require each private entity which uses an over-the-road bus to provide transportation of individuals to provide accessibility to such bus; except that such regulations shall not require any structural changes in over-the-road buses in order to provide access to individuals who use wheelchairs during the effective period of such regulations and shall not require the purchase of boarding assistance devices to provide access to such individuals.

(ii) EFFECTIVE PERIOD.—The regulations issued pursuant to this subparagraph shall be effective until the effective date of the regulations issued under subparagraph (B).

(B) FINAL REQUIREMENT.—

(i) REVIEW OF STUDY AND INTERIM REQUIREMENTS.—The Secretary shall review the study submitted under section 305 and the regulations issued pursuant to subparagraph (A).

(ii) ISSUANCE.—Not later than 1 year after the date of the submission of the study under section 305, the Secretary shall issue in an accessible format new regulations to carry out sections 304(b)(4) and 302(b)(2)(D)(ii) that require, taking into account the purposes of the study under section 305 and any recommendations resulting from such study, each private entity which uses an over-the-road bus to provide transportation to individuals to provide accessibility to such bus to individuals with disabilities, including individuals who use wheelchairs.

(iii) EFFECTIVE PERIOD.—Subject to section 305(d), the regulations issued pursuant to this subparagraph shall take effect—

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[1] So in original. Probably should be "section".

(I) with respect to small providers of transportation (as defined by the Secretary), 7 years after the date of the enactment of this Act; and

(II) with respect to other providers of transportation, 6 years after such date of enactment.

(C) LIMITATION ON REQUIRING INSTALLATION OF ACCESSIBLE RESTROOMS.—The regulations issued pursuant to this paragraph shall not require the installation of accessible restrooms in over-the-road buses if such installation would result in a loss of seating capacity.

(3) STANDARDS.—The regulations issued pursuant to this subsection shall include standards applicable to facilities and vehicles covered by sections 302(b)(2) and 304.

(b) OTHER PROVISIONS.—Not later than 1 year after the date of the enactment of this Act, the Attorney General shall issue regulations in an accessible format to carry out the provisions of this title not referred to in subsection (a) that include standards applicable to facilities and vehicles covered under section 302.

(c) CONSISTENCY WITH ATBCB GUIDELINES.—Standards included in regulations issued under subsections (a) and (b) shall be consistent with the minimum guidelines and requirements issued by the Architectural and Transportation Barriers Compliance Board in accordance with section 504 of this Act.

(d) INTERIM ACCESSIBILITY STANDARDS.—

(1) FACILITIES.—If final regulations have not been issued pursuant to this section, for new construction or alterations for which a valid and appropriate State or local building permit is obtained prior to the issuance of final regulations under this section, and for which the construction or alteration authorized by such permit begins within one year of the receipt of such permit and is completed under the terms of such permit, compliance with the Uniform Federal Accessibility Standards in effect at the time the building permit is issued shall suffice to satisfy the requirement that facilities be readily accessible to and usable by persons with disabilities as required under section 303, except that, if such final regulations have not been issued one year after the Architectural and Transportation Barriers Compliance Board has issued the supplemental minimum guidelines required under section 504(a) of this Act, compliance with such supplemental minimum guidelines shall be necessary to satisfy the requirement that facilities be readily accessible to and usable by persons with disabilities prior to issuance of the final regulations.

(2) VEHICLES AND RAIL PASSENGER CARS.—If final regulations have not been issued pursuant to this section, a private entity shall be considered to have complied with the requirements of this title, if any, that a vehicle or rail passenger car be readily accessible to and usable by individuals with disabilities, if the design for such vehicle or car complies with the laws and regulations (including the Minimum Guidelines and Requirements for Accessible Design and such supplemental minimum guidelines as are issued under section 504(a) of this Act) governing accessibility of such vehicles or cars, to the extent that such laws and regulations are not inconsistent with

this title and are in effect at the time such design is substantially completed.

SEC. 307. [42 U.S.C. 12187] EXEMPTIONS FOR PRIVATE CLUBS AND RELIGIOUS ORGANIZATIONS.

The provisions of this title shall not apply to private clubs or establishments exempted from coverage under title II of the Civil Rights Act of 1964 (42 U.S.C. 2000–a(e)) or to religious organizations or entities controlled by religious organizations, including places of worship.

SEC. 308. [42 U.S.C. 12188] ENFORCEMENT.

(a) In General.—

(1) Availability of remedies and procedures.—The remedies and procedures set forth in section 204(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000a–3(a)) are the remedies and procedures this title provides to any person who is being subjected to discrimination on the basis of disability in violation of this title or who has reasonable grounds for believing that such person is about to be subjected to discrimination in violation of section 303. Nothing in this section shall require a person with a disability to engage in a futile gesture if such person has actual notice that a person or organization covered by this title does not intend to comply with its provisions.

(2) Injunctive relief.—In the case of violations of sections 302(b)(2)(A)(iv) and section[1] 303(a), injunctive relief shall include an order to alter facilities to make such facilities readily accessible to and usable by individuals with disabilities to the extent required by this title. Where appropriate, injunctive relief shall also include requiring the provision of an auxiliary aid or service, modification of a policy, or provision of alternative methods, to the extent required by this title.

(b) Enforcement by the Attorney General.—

(1) Denial of rights.—

(A) Duty to investigate.—

(i) In general.—The Attorney General shall investigate alleged violations of this title, and shall undertake periodic reviews of compliance of covered entities under this title.

(ii) Attorney general certification.—On the application of a State or local government, the Attorney General may, in consultation with the Architectural and Transportation Barriers Compliance Board, and after prior notice and a public hearing at which persons, including individuals with disabilities, are provided an opportunity to testify against such certification, certify that a State law or local building code or similar ordinance that establishes accessibility requirements meets or exceeds the minimum requirements of this Act for the accessibility and usability of covered facilities under this title. At any enforcement proceeding under this section, such certification by the Attorney General shall be rebuttable evidence that such State law or local ordinance does meet or exceed the minimum requirements of this Act.

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[1] So in original. The word "section" probably should not appear.

(B) POTENTIAL VIOLATION.—If the Attorney General has reasonable cause to believe that—

(i) any person or group of persons is engaged in a pattern or practice of discrimination under this title; or

(ii) any person or group of persons has been discriminated against under this title and such discrimination raises an issue of general public importance,

the Attorney General may commence a civil action in any appropriate United States district court.

(2) AUTHORITY OF COURT.—In a civil action under paragraph (1)(B), the court—

(A) may grant any equitable relief that such court considers to be appropriate, including, to the extent required by this title—

(i) granting temporary, preliminary, or permanent relief;

(ii) providing an auxiliary aid or service, modification of policy, practice, or procedure, or alternative method; and

(iii) making facilities readily accessible to and usable by individuals with disabilities;

(B) may award such other relief as the court considers to be appropriate, including monetary damages to persons aggrieved when requested by the Attorney General; and

(C) may, to vindicate the public interest, assess a civil penalty against the entity in an amount—

(i) not exceeding $50,000 for a first violation; and

(ii) not exceeding $100,000 for any subsequent violation.

(3) SINGLE VIOLATION.—For purposes of paragraph (2)(C), in determining whether a first or subsequent violation has occurred, a determination in a single action, by judgment or settlement, that the covered entity has engaged in more than one discriminatory act shall be counted as a single violation.

(4) PUNITIVE DAMAGES.—For purposes of subsection (b)(2)(B), the term "monetary damages" and "such other relief" does not include punitive damages.

(5) JUDICIAL CONSIDERATION.—In a civil action under paragraph (1)(B), the court, when considering what amount of civil penalty, if any, is appropriate, shall give consideration to any good faith effort or attempt to comply with this Act by the entity. In evaluating good faith, the court shall consider, among other factors it deems relevant, whether the entity could have reasonably anticipated the need for an appropriate type of auxiliary aid needed to accommodate the unique needs of a particular individual with a disability.

SEC. 309. [42 U.S.C. 12189] EXAMINATIONS AND COURSES.

Any person that offers examinations or courses related to applications, licensing, certification, or credentialing for secondary or postsecondary education, professional, or trade purposes shall offer such examinations or courses in a place and manner accessible to persons with disabilities or offer alternative accessible arrangements for such individuals.

SEC. 310. [42 U.S.C. 12181] EFFECTIVE DATE.

(a) GENERAL RULE.—Except as provided in subsections (b) and (c), this title shall become effective 18 months after the date of the enactment of this Act.

(b) CIVIL ACTIONS.—Except for any civil action brought for a violation of section 303, no civil action shall be brought for any act or omission described in section 302 which occurs—

(1) during the first 6 months after the effective date, against businesses that employ 25 or fewer employees and have gross receipts of $1,000,000 or less; and

(2) during the first year after the effective date, against businesses that employ 10 or fewer employees and have gross receipts of $500,000 or less.

(c) EXCEPTION.—Sections 302(a) for purposes of section 302(b)(2) (B) and (C) only, 304(a) for purposes of section 304(b)(3) only, 304(b)(3), 305, and 306 shall take effect on the date of the enactment of this Act.

TITLE IV—TELECOMMUNICATIONS

SEC. 401. TELECOMMUNICATIONS RELAY SERVICES FOR HEARINGIMPAIRED AND SPEECH-IMPAIRED INDIVIDUALS.

(a) TELECOMMUNICATIONS.—Title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 225. [47 U.S.C. 225] TELECOMMUNICATIONS SERVICES FOR HEARING-IMPAIRED AND SPEECH-IMPAIRED INDIVIDUALS.

"(a) DEFINITIONS.—As used in this section—

"(1) COMMON CARRIER OR CARRIER.—The term 'common carrier' or 'carrier' includes any common carrier engaged in interstate communication by wire or radio as defined in section 3(h) and any common carrier engaged in intrastate communication by wire or radio, notwithstanding sections 2(b) and 221(b).

"(2) TDD.—The term 'TDD' means a Telecommunications Device for the Deaf, which is a machine that employs graphic communication in the transmission of coded signals through a wire or radio communication system.

"(3) TELECOMMUNICATIONS RELAY SERVICES.—The term 'telecommunications relay services' means telephone transmission services that provide the ability for an individual who has a hearing impairment or speech impairment to engage in communication by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual who does not have a hearing impairment or speech impairment to communicate using voice communication services by wire or radio. Such term includes services that enable two-way communication between an individual who uses a TDD or other nonvoice terminal device and an individual who does not use such a device.

"(b) AVAILABILITY OF TELECOMMUNICATIONS RELAY SERVICES.—

"(1) IN GENERAL.—In order to carry out the purposes established under section 1, to make available to all individuals in the United States a rapid, efficient nationwide communication service, and to increase the utility of the telephone system of the Nation, the Commission shall ensure that interstate and intrastate telecommunications relay services are available, to the extent possible and in the most efficient manner, to hearing-impaired and speech-impaired individuals in the United States.

"(2) USE OF GENERAL AUTHORITY AND REMEDIES.—For the purposes of administering and enforcing the provisions of this section and the regulations prescribed thereunder, the Commission shall have the same authority, power, and functions with respect to common carriers engaged in intrastate communication as the Commission has in administering and enforcing the provisions of this title with respect to any common carrier engaged in interstate communication. Any violation of this section by any common carrier engaged in intrastate communication shall be subject to the same remedies, penalties, and procedures as are applicable to a violation of this Act by a common carrier engaged in interstate communication.

"(c) PROVISION OF SERVICES.—Each common carrier providing telephone voice transmission services shall, not later than 3 years after the date of enactment of this section, provide in compliance with the regulations prescribed under this section, throughout the area in which it offers service, telecommunications relay services, individually, through designees, through a competitively selected vendor, or in concert with other carriers. A common carrier shall be considered to be in compliance with such regulations—

"(1) with respect to intrastate telecommunications relay services in any State that does not have a certified program under subsection (f) and with respect to interstate telecommunications relay services, if such common carrier (or other entity through which the carrier is providing such relay services) is in compliance with the Commission's regulations under subsection (d); or

"(2) with respect to intrastate telecommunications relay services in any State that has a certified program under subsection (f) for such State, if such common carrier (or other entity through which the carrier is providing such relay services) is in compliance with the program certified under subsection (f) for such State.

"(d) REGULATIONS.—

"(1) IN GENERAL.—The Commission shall, not later than 1 year after the date of enactment of this section, prescribe regulations to implement this section, including regulations that—

"(A) establish functional requirements, guidelines, and operations procedures for telecommunications relay services;

"(B) establish minimum standards that shall be met in carrying out subsection (c);

"(C) require that telecommunications relay services operate every day for 24 hours per day;

"(D) require that users of telecommunications relay services pay rates no greater than the rates paid for functionally equivalent voice communication services with respect to such factors as the duration of the call, the time of day, and the distance from point of origination to point of termination;

"(E) prohibit relay operators from failing to fulfill the obligations of common carriers by refusing calls or limiting the length of calls that use telecommunications relay services;

"(F) prohibit relay operators from disclosing the content of any relayed conversation and from keeping records of the content of any such conversation beyond the duration of the call; and

"(G) prohibit relay operators from intentionally altering a relayed conversation.

"(2) Technology.—The Commission shall ensure that regulations prescribed to implement this section encourage, consistent with section 7(a) of this Act, the use of existing technology and do not discourage or impair the development of improved technology.

"(3) Jurisdictional separation of costs.—

"(A) In general.—Consistent with the provisions of section 410 of this Act, the Commission shall prescribe regulations governing the jurisdictional separation of costs for the services provided pursuant to this section.

"(B) Recovering costs.—Such regulations shall generally provide that costs caused by interstate telecommunications relay services shall be recovered from all subscribers for every interstate service and costs caused by intrastate telecommunications relay services shall be recovered from the intrastate jurisdiction. In a State that has a certified program under subsection (f), a State commission shall permit a common carrier to recover the costs incurred in providing intrastate telecommunications relay services by a method consistent with the requirements of this section.

"(e) Enforcement.—

"(1) In general.—Subject to subsections (f) and (g), the Commission shall enforce this section.

"(2) Complaint.—The Commission shall resolve, by final order, a complaint alleging a violation of this section within 180 days after the date such complaint is filed.

"(f) Certification.—

"(1) State documentation.—Any State desiring to establish a State program under this section shall submit documentation to the Commission that describes the program of such State for implementing intrastate telecommunications relay services and the procedures and remedies available for enforcing any requirements imposed by the State program.

"(2) Requirements for certification.—After review of such documentation, the Commission shall certify the State program if the Commission determines that—

"(A) the program makes available to hearing-impaired and speech-impaired individuals, either directly, through designees, through a competitively selected vendor, or through regulation of intrastate common carriers, intrastate telecommunications relay services in such State in a manner that meets or exceeds the requirements of regulations prescribed by the Commission under subsection (d); and

"(B) the program makes available adequate procedures and remedies for enforcing the requirements of the State program.

"(3) Method of funding.—Except as provided in subsection (d), the Commission shall not refuse to certify a State program based solely on the method such State will implement for funding intrastate telecommunication relay services.

"(4) Suspension or revocation of certification.—The Commission may suspend or revoke such certification if, after notice and opportunity for hearing, the Commission determines that such certification is no longer warranted. In a State whose program has been suspended or revoked, the Commission shall take such steps as may be necessary, consistent with this section, to ensure continuity of telecommunications relay services.

"(g) Complaint.—

"(1) Referral of complaint.—If a complaint to the Commission alleges a violation of this section with respect to intrastate telecommunications relay services within a State and certification of the program of such State under subsection (f) is in effect, the Commission shall refer such complaint to such State.

"(2) Jurisdiction of commission.—After referring a complaint to a State under paragraph (1), the Commission shall exercise jurisdiction over such complaint only if—

"(A) final action under such State program has not been taken on such complaint by such State—

"(i) within 180 days after the complaint is filed with such State; or

"(ii) within a shorter period as prescribed by the regulations of such State; or

"(B) the Commission determines that such State program is no longer qualified for certification under subsection (f).".

(b) Conforming Amendments.—The Communications Act of 1934 (47 U.S.C. 151 et seq.) is amended—

(1) in section 2(b) (47 U.S.C. 152(b)), by striking "section 224" and inserting "sections 224 and 225"; and

(2) in section 221(b) (47 U.S.C. 221(b)), by striking "section 301" and inserting "sections 225 and 301".

SEC. 402. CLOSED-CAPTIONING OF PUBLIC SERVICE ANNOUNCEMENTS.

Section 711 [42 U.S.C. 611] of the Communications Act of 1934 is amended to read as follows:

"SEC. 711. CLOSED-CAPTIONING OF PUBLIC SERVICE ANNOUNCEMENTS.

"Any television public service announcement that is produced or funded in whole or in part by any agency or instrumentality of Federal Government shall include closed captioning of the verbal content of such announcement. A television broadcast station licensee—

"(1) shall not be required to supply closed captioning for any such announcement that fails to include it; and

"(2) shall not be liable for broadcasting any such announcement without transmitting a closed caption unless the licensee intentionally fails to transmit the closed caption that was included with the announcement.".

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. [42 U.S.C. 12201] CONSTRUCTION.

(a) In General.—Except as otherwise provided in this Act, nothing in this Act shall be construed to apply a lesser standard than the standards applied under title V of the Rehabilitation Act of 1973 (29 U.S.C. 790 et seq.) or the regulations issued by Federal agencies pursuant to such title.

(b) Relationship to Other Laws.—Nothing in this Act shall be construed to invalidate or limit the remedies, rights, and procedures of any Federal law or law of any State or political subdivision of any State or jurisdiction that provides greater or equal protection for the rights of individuals with disabilities than are afforded by this Act. Nothing in this Act shall be construed to preclude the prohibition of, or the imposition of restrictions on, smoking in places of employment covered by title I, in transportation covered by title II or III, or in places of public accommodation covered by title III.

(c) Insurance.—Titles I through IV of this Act shall not be construed to prohibit or restrict—

(1) an insurer, hospital or medical service company, health maintenance organization, or any agent, or entity that administers benefit plans, or similar organizations from underwriting risks, classifying risks, or administering such risks that are based on or not inconsistent with State law; or

(2) a person or organization covered by this Act from establishing, sponsoring, observing or administering the terms of a bona fide benefit plan that are based on underwriting risks, classifying risks, or administering such risks that are based on or not inconsistent with State law; or

(3) a person or organization covered by this Act from establishing, sponsoring, observing or administering the terms of a bona fide benefit plan that is not subject to State laws that regulate insurance.

Paragraphs (1), (2), and (3) shall not be used as a subterfuge to evade the purposes of title[1] I and III.

(d) ACCOMMODATIONS AND SERVICES.—Nothing in this Act shall be construed to require an individual with a disability to accept an accommodation, aid, service, opportunity, or benefit which such individual chooses not to accept.

SEC. 502. [42 U.S.C. 12202] STATE IMMUNITY.

A State shall not be immune under the eleventh amendment to the Constitution of the United States from an action in[2] Federal or State court of competent jurisdiction for a violation of this Act. In any action against a State for a violation of the requirements of this Act, remedies (including remedies both at law and in equity) are available for such a violation to the same extent as such remedies are available for such a violation in an action against any public or private entity other than a State.

SEC. 503. [42 U.S.C. 12203] PROHIBITION AGAINST RETALIATION AND COERCION.

(a) RETALIATION.—No person shall discriminate against any individual because such individual has opposed any act or practice made unlawful by this Act or because such individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this Act.

(b) INTERFERENCE, COERCION, OR INTIMIDATION.—It shall be unlawful to coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by this Act.

(c) REMEDIES AND PROCEDURES.—The remedies and procedures available under sections 107, 203, and 308 of this Act shall be available to aggrieved persons for violations of subsections (a) and (b), with respect to title I, title II and title III, respectively.

SEC. 504. [42 U.S.C. 12204] REGULATIONS BY THE ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD.

(a) ISSUANCE OF GUIDELINES.—Not later than 9 months after the date of enactment of this Act, the Architectural and Transportation Barriers Compliance Board shall issue minimum guidelines that shall supplement the existing Minimum Guidelines and Requirements for Accessible Design for purposes of titles II and III of this Act.

(b) CONTENTS OF GUIDELINES.—The supplemental guidelines issued under subsection (a) shall establish additional requirements, consistent with this Act, to ensure that buildings, facilities, rail passenger cars, and vehicles are accessible, in terms of architecture and design, transportation, and communication, to individuals with disabilities.

(c) QUALIFIED HISTORIC PROPERTIES.—

(1) IN GENERAL.—The supplemental guidelines issued under subsection (a) shall include procedures and requirements for alterations that will threaten or destroy the historic signifi-

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[1] So in original. Probably should be "titles".
[2] So in original. Probably should be "in a".

cance of qualified historic buildings and facilities as defined in 4.1.7(1)(a) of the Uniform Federal Accessibility Standards.

(2) SITES ELIGIBLE FOR LISTING IN NATIONAL REGISTER.—With respect to alterations of buildings or facilities that are eligible for listing in the National Register of Historic Places under the National Historic Preservation Act (16 U.S.C. 470 et seq.), the guidelines described in paragraph (1) shall, at a minimum, maintain the procedures and requirements established in 4.1.7 (1) and (2) of the Uniform Federal Accessibility Standards.

(3) OTHER SITES.—With respect to alterations of buildings or facilities designated as historic under State or local law, the guidelines described in paragraph (1) shall establish procedures equivalent to those established by 4.1.7(1) (b) and (c) of the Uniform Federal Accessibility Standards, and shall require, at a minimum, compliance with the requirements established in 4.1.7(2) of such standards.

SEC. 505. [42 U.S.C. 12205] ATTORNEY'S FEES.

In any action or administrative proceeding commenced pursuant to this Act, the court or agency, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee, including litigation expenses, and costs, and the United States shall be liable for the foregoing the same as a private individual.

SEC. 506. [42 U.S.C. 12206] TECHNICAL ASSISTANCE.

(a) PLAN FOR ASSISTANCE.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Attorney General, in consultation with the Chair of the Equal Employment Opportunity Commission, the Secretary of Transportation, the Chair of the Architectural and Transportation Barriers Compliance Board, and the Chairman of the Federal Communications Commission, shall develop a plan to assist entities covered under this Act, and other Federal agencies, in understanding the responsibility of such entities and agencies under this Act.

(2) PUBLICATION OF PLAN.—The Attorney General shall publish the plan referred to in paragraph (1) for public comment in accordance with subchapter II of chapter 5 of title 5, United States Code (commonly known as the Administrative Procedure Act).

(b) AGENCY AND PUBLIC ASSISTANCE.—The Attorney General may obtain the assistance of other Federal agencies in carrying out subsection (a), including the National Council on Disability, the President's Committee on Employment of People with Disabilities, the Small Business Administration, and the Department of Commerce.

(c) IMPLEMENTATION.—

(1) RENDERING ASSISTANCE.—Each Federal agency that has responsibility under paragraph (2) for implementing this Act may render technical assistance to individuals and institutions that have rights or duties under the respective title or titles for which such agency has responsibility.

(2) IMPLEMENTATION OF TITLES.—

(A) TITLE I.—The Equal Employment Opportunity Commission and the Attorney General shall implement the plan for assistance developed under subsection (a), for title I.

(B) TITLE II.—

(i) SUBTITLE A.—The Attorney General shall implement such plan for assistance for subtitle A of title II.

(ii) SUBTITLE B.—The Secretary of Transportation shall implement such plan for assistance for subtitle B of title II.

(C) TITLE III.—The Attorney General, in coordination with the Secretary of Transportation and the Chair of the Architectural Transportation Barriers Compliance Board, shall implement such plan for assistance for title III, except for section 304, the plan for assistance for which shall be implemented by the Secretary of Transportation.

(D) TITLE IV.—The Chairman of the Federal Communications Commission, in coordination with the Attorney General, shall implement such plan for assistance for title IV.

(3) TECHNICAL ASSISTANCE MANUALS.—Each Federal agency that has responsibility under paragraph (2) for implementing this Act shall, as part of its implementation responsibilities, ensure the availability and provision of appropriate technical assistance manuals to individuals or entities with rights or duties under this Act no later than six months after applicable final regulations are published under titles I, II, III, and IV.

(d) GRANTS AND CONTRACTS.—

(1) IN GENERAL.—Each Federal agency that has responsibility under subsection (c)(2) for implementing this Act may make grants or award contracts to effectuate the purposes of this section, subject to the availability of appropriations. Such grants and contracts may be awarded to individuals, institutions not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual (including educational institutions), and associations representing individuals who have rights or duties under this Act. Contracts may be awarded to entities organized for profit, but such entities may not be the recipients or[1] grants described in this paragraph.

(2) DISSEMINATION OF INFORMATION.—Such grants and contracts, among other uses, may be designed to ensure wide dissemination of information about the rights and duties established by this Act and to provide information and technical assistance about techniques for effective compliance with this Act.

(e) FAILURE TO RECEIVE ASSISTANCE.—An employer, public accommodation, or other entity covered under this Act shall not be excused from compliance with the requirements of this Act because of any failure to receive technical assistance under this section, including any failure in the development or dissemination of any technical assistance manual authorized by this section.

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[1] So in original. Probably should be "of".

SEC. 507. [42 U.S.C. 12207] FEDERAL WILDERNESS AREAS.

(a) STUDY.—The National Council on Disability shall conduct a study and report on the effect that wilderness designations and wilderness land management practices have on the ability of individuals with disabilities to use and enjoy the National Wilderness Preservation System as established under the Wilderness Act (16 U.S.C. 1131 et seq.).

(b) SUBMISSION OF REPORT.—Not later than 1 year after the enactment of this Act, the National Council on Disability shall submit the report required under subsection (a) to Congress.

(c) SPECIFIC WILDERNESS ACCESS.—

(1) IN GENERAL.—Congress reaffirms that nothing in the Wilderness Act is to be construed as prohibiting the use of a wheelchair in a wilderness area by an individual whose disability requires use of a wheelchair, and consistent with the Wilderness Act no agency is required to provide any form of special treatment or accommodation, or to construct any facilities or modify any conditions of lands within a wilderness area in order to facilitate such use.

(2) DEFINITION.—For purposes of paragraph (1), the term "wheelchair" means a device designed solely for use by a mobility-impaired person for locomotion, that is suitable for use in an indoor pedestrian area.

SEC. 508. [42 U.S.C. 12208] TRANSVESTITES.

For the purposes of this Act, the term "disabled" or "disability" shall not apply to an individual solely because that individual is a transvestite.

SEC. 509. [42 U.S.C. 12209] COVERAGE OF CONGRESS AND THE AGENCIES OF THE LEGISLATIVE BRANCH.

(a) COVERAGE OF THE SENATE.—

(1) COMMITMENT TO RULE XLII.—The Senate reaffirms its commitment to Rule XLII of the Standing Rules of the Senate which provides as follows:

"No member, officer, or employee of the Senate shall, with respect to employment by the Senate or any office thereof—

"(a) fail or refuse to hire an individual;

"(b) discharge an individual; or

"(c) otherwise discriminate against an individual with respect to promotion, compensation, or terms, conditions, or privileges of employment

on the basis of such individual's race, color, religion, sex, national origin, age, or state of physical handicap.".

(2) MATTERS OTHER THAN EMPLOYMENT.—

(A) IN GENERAL.—The rights and protections under this Act shall, subject to subparagraph (B), apply with respect to the conduct of the Senate regarding matters other than employment.

(B) REMEDIES.—The Architect of the Capitol shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to subparagraph (A). Such remedies and procedures shall apply exclusively, after approval in accordance with subparagraph (C).

(C) Proposed remedies and procedures.—For purposes of subparagraph (B), the Architect of the Capitol shall submit proposed remedies and procedures to the Senate Committee on Rules and Administration. The remedies and procedures shall be effective upon the approval of the Committee on Rules and Administration.

(3) Exercise of rulemaking power.—Notwithstanding any other provision of law, enforcement and adjudication of the rights and protections referred to in paragraph (2)(A) shall be within the exclusive jurisdiction of the United States Senate. The provisions of paragraph (1),[1] (2) are enacted by the Senate as an exercise of the rulemaking power of the Senate, with full recognition of the right of the Senate to change its rules, in the same manner, and to the same extent, as in the case of any other rule of the Senate.

(b) Coverage of the House of Representatives.—

(1) In general.—Notwithstanding any other provision of this Act or of law, the purposes of this Act shall, subject to paragraphs (2) and (3), apply in their entirety to the House of Representatives.

(2) Employment in the house.—

(A) Application.—The rights and protections under this Act shall, subject to subparagraph (B), apply with respect to any employee in an employment position in the House of Representatives and any employing authority of the House of Representatives.

(B) Administration.—

(i) In general.—In the administration of this paragraph, the remedies and procedures made applicable pursuant to the resolution described in clause (ii) shall apply exclusively, except for the employees who are defined as Senate employees, in section 301(c)(1) of the Civil Rights Act of 1991.

(ii) Resolution.—The resolution referred to in clause (i) is House Resolution 15 of the One Hundred First Congress, as agreed to January 3, 1989, or any other provision that continues in effect the provisions of, or is a successor to, the Fair Employment Practices Resolution (House Resolution 558 of the One Hundredth Congress, as agreed to October 4, 1988).

(C) Exercise of rulemaking power.—The provisions of subparagraph (B) are enacted by the House of Representatives as an exercise of the rulemaking power of the House of Representatives, with full recognition of the right of the House to change its rules, in the same manner, and to the same extent as in the case of any other rule of the House.

(3) Matters other than employment.—

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[1] Section 315(1)(C)(ii) of P.L. 102–166, 105 Stat. 1095, amended this paragraph by striking "(3), (4), (5), (6)(B) and (6)(C)" and inserting "(2)". Probably should be "paragraphs (1) and (2)".

(A) In general.—The rights and protections under this Act shall, subject to subparagraph (B), apply with respect to the conduct of the House of Representatives regarding matters other than employment.

(B) Remedies.—The Architect of the Capitol shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to subparagraph (A). Such remedies and procedures shall apply exclusively, after approval in accordance with subparagraph (C).

(C) Approval.—For purposes of subparagraph (B), the Architect of the Capitol shall submit proposed remedies and procedures to the Speaker of the House of Representatives. The remedies and procedures shall be effective upon the approval of the Speaker, after consultation with the House Office Building Commission.

(c) Instrumentalities of Congress.—

(1) In general.—The rights and protections under this Act shall, subject to paragraph (2), apply with respect to the conduct of each instrumentality of the Congress.

(2) Establishment of remedies and procedures by instrumentalities.—The chief official of each instrumentality of the Congress shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to paragraph (1). Such remedies and procedures shall apply exclusively, except for the employees who are defined as Senate employees, in section 301(c)(1) of the Civil Rights Act of 1991.

(3) Report to congress.—The chief official of each instrumentality of the Congress shall, after establishing remedies and procedures for purposes of paragraph (2), submit to the Congress a report describing the remedies and procedures.

(4) Definition of instrumentalities.—For purposes of this section, instrumentalities of the Congress include the following: the Architect of the Capitol, the Congressional Budget Office, the General Accounting Office, the Government Printing Office, the Library of Congress, the Office of Technology Assessment, and the United States Botanic Garden.

(5) Construction.—Nothing in this section shall alter the enforcement procedures for individuals with disabilities provided in the General Accounting Office Personnel Act of 1980 and regulations promulgated pursuant to that Act.

SEC. 510. [42 U.S.C. 12210] ILLEGAL USE OF DRUGS.

(a) In General.—For purposes of this Act, the term "individual with a disability" does not include an individual who is currently engaging in the illegal use of drugs, when the covered entity acts on the basis of such use.

(b) Rules of Construction.—Nothing in subsection (a) shall be construed to exclude as an individual with a disability an individual who—

(1) has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of

drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;

(2) is participating in a supervised rehabilitation program and is no longer engaging in such use; or

(3) is erroneously regarded as engaging in such use, but is not engaging in such use;

except that it shall not be a violation of this Act for a covered entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in paragraph (1) or (2) is no longer engaging in the illegal use of drugs; however, nothing in this section shall be construed to encourage, prohibit, restrict, or authorize the conducting of testing for the illegal use of drugs.

(c) Health and Other Services.—Notwithstanding subsection (a) and section 511(b)(3), an individual shall not be denied health services, or services provided in connection with drug rehabilitation, on the basis of the current illegal use of drugs if the individual is otherwise entitled to such services.

(d) Definition of Illegal use of drugs.—

(1) In general.—The term "illegal use of drugs" means the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act (21 U.S.C. 812). Such term does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

(2) Drugs.—The term "drug" means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act.

SEC. 511. [42 U.S.C. 12211] DEFINITIONS.

(a) Homosexuality and Bisexuality.—For purposes of the definition of "disability" in section 3(2), homosexuality and bisexuality are not impairments and as such are not disabilities under this Act.

(b) Certain Conditions.—Under this Act, the term "disability" shall not include—

(1) transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;

(2) compulsive gambling, kleptomania, or pyromania; or

(3) psychoactive substance use disorders resulting from current illegal use of drugs.

SEC. 512. AMENDMENTS TO THE REHABILITATION ACT.

(a) Definition of Handicapped Individual.—Section 7(8) of the Rehabilitation Act of 1973 (29 U.S.C. 706(8)) is amended by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following subparagraph:

"(C)(i) For purposes of title V, the term 'individual with handicaps' does not include an individual who is currently engaging in the illegal use of drugs, when a covered entity acts on the basis of such use.

"(ii) Nothing in clause (i) shall be construed to exclude as an individual with handicaps an individual who—

"(I) has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;

"(II) is participating in a supervised rehabilitation program and is no longer engaging in such use; or

"(III) is erroneously regarded as engaging in such use, but is not engaging in such use;

except that it shall not be a violation of this Act for a covered entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in subclause (I) or (II) is no longer engaging in the illegal use of drugs.

"(iii) Notwithstanding clause (i), for purposes of programs and activities providing health services and services provided under titles I, II and III, an individual shall not be excluded from the benefits of such programs or activities on the basis of his or her current illegal use of drugs if he or she is otherwise entitled to such services.

"(iv) For purposes of programs and activities providing educational services, local educational agencies may take disciplinary action pertaining to the use or possession of illegal drugs or alcohol against any handicapped student who currently is engaging in the illegal use of drugs or in the use of alcohol to the same extent that such disciplinary action is taken against nonhandicapped students. Furthermore, the due process procedures at 34 CFR 104.36 shall not apply to such disciplinary actions.

"(v) For purposes of sections 503 and 504 as such sections relate to employment, the term 'individual with handicaps' does not include any individual who is an alcoholic whose current use of alcohol prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol abuse, would constitute a direct threat to property or the safety of others.".

(b) DEFINITION OF ILLEGAL DRUGS.—Section 7 of the Rehabilitation Act of 1973 (29 U.S.C. 706) is amended by adding at the end the following new paragraph:

"(22)(A) The term 'drug' means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812).

"(B) The term 'illegal use of drugs' means the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act. Such term does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.".

(c) CONFORMING AMENDMENTS.—Section 7(8)(B) of the Rehabilitation Act of 1973 (29 U.S.C. 706(8)(B)) is amended—

(1) in the first sentence, by striking "Subject to the second sentence of this subparagraph," and inserting "Subject to subparagraphs (C) and (D),"; and

(2) by striking the second sentence.

SEC. 513. [42 U.S.C. 12213] ALTERNATIVE MEANS OF DISPUTE RESOLUTION.

Where appropriate and to the extent authorized by law, the use of alternative means of dispute resolution, including settlement negotiations, conciliation, facilitation, mediation, factfinding, minitrials, and arbitration, is encouraged to resolve disputes arising under this Act.

SEC. 514. [42 U.S.C. 12213] SEVERABILITY.

Should any provision in this Act be found to be unconstitutional by a court of law, such provision shall be severed from the remainder of the Act, and such action shall not affect the enforceability of the remaining provisions of the Act.

JOINT RESOLUTION OF JULY 11, 1949

Joint Resolution of July 11, 1949[1]

JOINT RESOLUTION Authorizing an appropriation for the work of the President's Committee on National Employ the Physically Handicapped Week.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to effectuate the purposes of National Disability Employment Awareness Month and in order to enable the President to provide the President's Committee on Employment of People With Disabilities with adequate personnel to assist in its activities, and otherwise to provide the committee with the means of carrying out a program to promote the employment of persons with disabilities, by creating Nationwide interest in the rehabilitation and employment of such persons and by obtaining and maintaining cooperation from all public and private groups in the field, there is[2] hereby authorized to be appropriated for each of the fiscal years 1987, 1988, 1989, 1990, 1991, and 1992,[3] such sums as may be necessary to be expended in such manner and by such agencies as the President may direct, for the work of the President's Committee on Employment of People With Disabilities.

SEC. 2. The President's Committee on Employment of People With Disabilities may—

(1) accept voluntary and uncompensated services, notwithstanding the provisions of section 1342 of title 31; and

(2) in the name of the Committee, accept, employ, and dispose of, in furtherance of this resolution, any money or property, real, personal, or mixed, tangible or nontangible, received by gift, devise, bequest, or otherwise.

(See 36 U.S.C. 155a, 155b)

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[1] Chapter 302; 63 Stat. 409.

[2] So in law. Probably should be "are".

[3] Section 914(3) of Public Law 102–596 (106 Stat. 4488) provided that the joint resolution is amended by striking "for each of the fiscal years 1987, 1988, 1989, 1990, and 1991," and inserting "for each of the fiscal years 1993, 1994, 1995, 1996, and 1997,". The amendment cannot be executed because, as a result of the amendment made by section 9(b) of Public Law 102–52 (105 Stat. 263), the language to be struck does not appear.

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APPENDIX

OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT (SELECTED AUTHORITIES)

SECTION 209 OF DEPARTMENT OF EDUCATION ORGANIZATION ACT

OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

SEC. 209. There shall be in the Department an Office of Educational Research and Improvement, to be administered by the Assistant Secretary for Educational Research and Improvement appointed under section 202(b). The Assistant Secretary shall administer such functions concerning research, development, demonstration, dissemination, evaluation, and assessment activities as the Secretary shall delegate.

(20 U.S.C. 3419) Enacted October 17, 1979, P.L. 96–88, 93 Stat. 674.

SECTIONS 405 AND 406 OF THE GENERAL EDUCATION PROVISIONS ACT

OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

SEC. 405. (a)(1) The Congress declares it to be the policy of the United States to provide to every individual an equal opportunity to receive an education of high quality regardless of his race, color, religion, sex, age, handicap, national origin, or social class. Although the American educational system has pursued this objective, it has not attained the objective. Inequalities of opportunity to receive high quality education remain pronounced. To achieve the goal of quality education requires the continued pursuit of knowledge about education through research, improvement activities, data collection, and information dissemination. While the direction of American education remains primarily the responsibility of State and local governments, the Federal Government has a clear responsibility to provide leadership in the conduct and support of scientific inquiry into the educational process.

(2) The Congress further declares it to be the policy of the United States to—

(A) promote the quality and equity of American education,[1]

(B) advance the practice of education as an art, science, and profession;

(C) support educational research of the highest quality;

(D) strengthen the educational research and development system;

(E) improve educational techniques and training;

(F) assess the national progress of this Nation's schools and educational institutions, particularly special populations; and;

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[1] So in law. The comma probably should be a semicolon.

(G) collect, analyze, and disseminate statistics and other data related to education in the United States and other nations.

(3) For purposes of this section—

(A) the term "Assistant Secretary" means the Assistant Secretary for Educational Research and Improvement established by section 202 of the Department of Education Organization Act;

(B) the term "Council" means the National Advisory Council on Educational Research and Improvement established by subsection (c);

(C) the term "educational research" includes basic and applied research, development, planning, surveys, assessments, evaluations, investigations, experiments, and demonstrations in the field of education and other fields relating to education;

(D) the term "Office" means the Office of Educational Research and Improvement established by section 209 of the Department of Education Organization Act; and

(E) the terms "United States" and "State" include the District of Columbia and the Commonwealth of Puerto Rico.

(b)(1) It shall be the purpose of the Office to carry out the policies set forth in subsection (a) of this section. The Office shall be administered by the Assistant Secretary and shall include—

(A) the National Advisory Council on Educational Research and Improvement established in subsection (c);

(B) the Center for Education Statistics established by section 406; and

(C) such other units as the Secretary deems appropriate to carry out the purposes of the Office.

(2) The Office shall, in accordance with the provisions of this section, seek to improve education in the United States through concentrating the resources of the Office on the priority research and development needs described in paragraph (3).

(3) The needs to which paragraph (2) apply are—

(A) improving student achievement;

(B) improving the ability of schools to meet their responsibilities to provide equal educational opportunities for all students, including those with limited English-speaking ability, women, older students, part-time students, minority students, gifted and talented students, handicapped students, and students who are socially, economically, or educationally disadvantaged;

(C) collecting, analyzing, and disseminating statistics and other data related to education in the United States and other nations;

(D) improving the dissemination and application of knowledge obtained through educational research and data gathering, particularly to education professionals and policy makers;

(E) encouraging the study of the sciences, the arts, and the humanities, including foreign languages and cultures;

(F) improving the data base of information on special populations and their educational status;

(G) conducting research on adult educational achievement, particularly literacy and illiteracy as it affects employment, crime, health, and human welfare;

(H) conducting research on postsecondary opportunities, especially access for minorities and women; and

(I) conducting research on education professionals, especially at the elementary and secondary levels including issues of recruitment, training, retention, and compensation.

(4) The Secretary shall publish proposed research priorities in the Federal Register every two years, not later than October 1, and shall allow a period of sixty days for public comments and suggesions.

(c)(1) The Council shall consist of fifteen members appointed by the President, by and with the advice and consent of the Senate. In addition, there shall be such ex officio members who are officers of the United States as the President may designate, including the Assistant Secretary. A majority of the appointed members of the Council shall constitute a quorum. The Chairman of the Council shall be designated by the President from among the appointed members. Ex officio members shall not have a vote on the Council. The members of the Council shall be appointed to ensure that the Council is broadly representative of the general public; the education professions, including practitioners; policymakers and researchers; and the various fields and levels of education.

(2)(A) Except as provided in subparagraph (B), members shall be appointed to terms of three years.

(B) Of the members first appointed—

(i) five shall be apointed for terms of one year;

(ii) five shall be appointed for terms of two years; and

(iii) five shall be appointed for terms of three years;

as designated by the President at the time of appointment.

(C) Any member appointed to fill a vacancy occurring before the expiration of the term for which the predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of a term until a successor has taken office.

(D) An appointed member who has been a member of the Council for six consecutive years shall be ineligible for appointment to the Council during the two-year period following the expiration of the sixth year.

(3) The Council shall—

(A) advise the Secretary and the Assistant Secretary on the policies and activities carried out by the Office;

(B) review and publicly comment on the policies and acitvities of the Office;

(C) conduct such activities as may be necessary to fulfill its functions under this subsection;

(D) prepare such reports to the Secretary on the activities of the Office as are appropriate; and

(E) submit, no later than March 31 of each year, a report to the President and the Congress on the activities of the Office, and on education, educational research, and data gathering in general.

(d)(1) In order to carry out the objectives of the Office under this section, the Secretary within the limits of available resources shall—

(A) conduct educational research;

(B) collect, analyze, and disseminate the findings of education reserach;

(C) train individuals in educational research;

(D) assist and foster such research, collection, dissemination, and training through grants, cooperative agreements, and technical assistance;

(E) promote the coordination of educational research and research support within the Federal Government and otherwise assist and foster such research; and

(F) collect, analyze, and disseminate statistics and other data related to education in the United States and other nations.

(2)(A) The Secretary may appoint, for terms not to exceed three years (without regard to the provisions of title 5 of the United States Code governing appointment in the competitive service) and may compensate (without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates) such scientific or professional employees of the Office as the Secretary considers necessary to accomplish its functions. The Secretary may also appoint and compensate not more than one-fifth of the number of full-time, regular scientific or professional employees of the Office without regard to such provisions. The rate of basic pay for such employees may not exceed the maximum annual rate of pay for grade GS–15 under section 5332 of title 5 of the United States Code, except that the pay of any employee employed before the date of enactment of the Higher Education Amendments of 1986 shall not be reduced by application of such maximum pay limitation.

(B) The Secaretary may reappoint employees described in subparagraph (A) upon presentation of a clear and convincing justification of need, for one additional term not to exceed three years. All such employees shall work on activities of the Office and shall not be reassigned to other duties outside the Office during their term.

(C) Individuals who are employed on the date of enactment of this Act and were employed by such Office on April 1, 1986, and who were employed under excepted hiring authority provided by section 209 of the Department of Education Organization Act or this section may continue to be employed for the duration of their current term.

(3)(A) The Secretary may carry out the activities in paragraph (1)—

(i) directly;

(ii) through grants, contracts, and cooperative agreements with institutions of higher education, public and private organizations, institutions, agencies, and individuals; and

(iii) through the provision of technical assistance.

(B) When making competitive awards under this subsection, the Secretary shall—

(i) solicit recommendations and advice regarding research priorities, opportunities, and strategies from qualified experts, such as education professionals and policymakers, personnel of the regional education laboratories[1] and of the research and development centers supported under paragraph (4), and the Council, as well as parents and other members of the general public;

(ii) employ suitable selection procedures utilizing the procedures and principles of peer review, except where such peer review procedures are clearly inappropriate given such factors as the relatively small amount of a grant or contract or the exigencies of the situation; and

(iii) determine that the activities assisted will be conducted efficiently, will be of high quality, and will meet priority research and development needs under this section.

(C) Whenever the Secretary enters into a cooperative agreement under this section, the Secretary shall negotiate any subsequent modifications in the cooperative agreement with all parties to the agreement affected by the modifications.

(4)(A) In carrying out the functions of the Office, the Secretary shall, in accordance with the provisions of this subsection, support—

(i) regional educational laboratories established by public agencies or private nonprofit organizations to serve the needs of a specific region of the Nation under the guidance of a regionally representative governing board, the regional agendas of which shall, consistent with the priority research and development needs established by subsection (b) (2) and (3), be determined by the governing boards of such labs;

(ii) research and development centers established by institutions of higher education, by institutions of higher education in consort with public agencies or private nonprofit organizations, or by interstate agencies established by compact which operate subsidiary bodies established to conduct postsecondary educational research and development;

(iii) meritorious unsolicited proposals for educational research and related activities that are authorized by this subsection; and

(iv) proposals that are specifically invited or requested by the Secretary, on a competitive basis, which meet objectives authorized by this subsection.

(B) Prior to awarding a grant or entering into a contract for a regional educational laboratory or research and development center under subparagraph (A)(i) or (A)(ii), the Secretary shall invite applicants to compete for such laboratories and centers through notice published in the Federal Register.

(C) Each application for assistance under subparagraph (A) (i) or (ii) as a regional educational laboratory or a research and development center shall contain such information as the Secretary may reasonably require, including assurances that the applicant will—

(i) be responsible for the conduct of the research and development activities;

(ii) prepare a long-range plan relating to the conduct of such research and development activities;

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[1] So in law. Should be "regional educational laboratories".

(iii) ensure that information developed as a result of such research and development activities, including new educational methods, practices, techniques, and products, will be appropriately disseminated;

(iv) provide technical assistance to appropriate educational agencies and institutions; and

(v) to the extent practicable, provide training for individuals, emphasizing training opportunities for women and members of minority groups, in the use of new educational methods, practices, techniques, and products developed in connection with such activities.

(D) No grant may be made and no contract entered into for assistance described under subparagraph (A) (i) or (ii) unless—

(i) proposals for assistance under this subsection are solicited from regional educational laboratories and research and development centers by the Office;

(ii) proposals for such assistance are developed by the regional educational laboratories and the research and development centers in consultation with the Office; and

(iii) the Office determines that the proposed activities will be consistent with the education research and development program and dissemination activities which are being conducted by the Office.

(E) No regional educational laboratory or research and development center receiving assistance under this subsection shall, by reason of the receipt of that assistance, be ineligible to receive any other assistance from the Office authorized by law.

(F) The Secretary shall make available adequate funds to support meritorious, unsolicited proposals as described under subparagraph (A)(iii), and provide sufficient notice of the availability of such funds to individual researchers in all regions of the country.

(5) The Secretary, from funds appropriated under this section, may establish and maintain research fellowships in the Office, for scholars, researchers, and statisticians engaged in the collection and dissemination of information about education and educational research. Subject to regulations published by the Secretary, fellowships may include such stipends and allowance, including travel and subsistence expenses provided for under title 5, United States Code, as the Secretary considers appropriate.

(6) The Secretary may award grants to institutions of higher education, including technical and community colleges as appropriate, to assess the new and emerging specialties and the technologies, academic subjects, and occupational areas requiring vocational education, with emphasis on the unique needs for preparing an adequate supply of vocational teachers of handicapped students. The Secretary shall give special consideration to the preparation required to teach classrooms of handicapped, or other highly targeted groups of students, in combination with other nonhandicapped or other nontargeted students, within the same vocational education setting.

(e)(1) There are authorized to be appropriated to carry out this section, $72,231,000 for fiscal year 1987 and such sums as may be necessary for each of the four succeeding fiscal years.

(2) The Secretary may not enter into a contract for the purpose of regional educational laboratories under subsection (d)(3)(A)(i) for a period in excess of five years.

(3) Not less than 95 per centum of funds appropriated pursuant to this subsection for any fiscal year shall be expended to carry out this section through grants, cooperative agreements, or contracts.

(4) When more than one Federal agency uses funds to support a single project under this section, the Office may act for all such agencies in administering those funds.

(f)(1) In each fiscal year for which the total amount appropriated to carry out this section and section 406 of this Act equals or exceeds the total amount appropriated for fiscal year 1986 to carry out such sections—

(A) not less than $17,760,000 shall be available in each fiscal year to carry out subsection (d)(4)(A)(ii) of this section (relating to centers);

(B) not less than $17,000,000 shall be available in each fiscal year to carry out subsection (d)(4)(A)(i) of this section (relating to labs);

(C) not less than $5,700,000 shall be available in each fiscal year to assist a separate system of 16 education resources information clearinghouses (including direct supporting dissemination services) pursuant to subsection (d)(3)(A) of this section, having the same functions and scope of work as the clearinghouses had on the date of enactment of the Higher Education Amendments of 1986;

(D) Not less than $9,500,000 for the fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990 through 1993, shall be available to carry out section 406(i) of this Act (relating to the National Assessment of Education Progress);

(E) not less than $8,750,000 shall be available in each fiscal year to carry out section 406 of this Act, except for subsection (i) of that section (relating to the Center for Educational Statistics); and

(F) not less than $500,000 shall be available in each fiscal year to carry out subsection (d)(4)(A)(iii) of this section (relating to field initiated research).

(2) If the sums appropriated for any fiscal year are less than the amount required to be made available under subparagraphs (A) through (F) of paragraph (1), then each of the amounts required to be made available under such subparagraphs shall be ratably reduced. If additional amounts become available for any such fiscal year, such reduced amounts shall be increased on the same basis as they were reduced.

(20 U.S.C. 1221e) Enacted June 23, 1972, P.L. 92–318, sec. 301(a)(2), 86 Stat. 328, 332; amended August 21, 1974, P.L. 93–380, sec. 502(b)(2)(B), 88 Stat. 560; amended October 12, 1976, P.L. 94–482, sec. 403, 90 Stat. 2227, 2228, 2229, 2230; amended Nov. 1, 1978, P.L. 95–561, sec. 1242, 92 Stat. 2352, 2353; see also general reference Oct. 17, 1979, P.L. 96–88, sec. 301, 93 Stat. 677; amended Oct. 3, 1980, P.L. 96–374, sec. 1311–1314, 94 Stat. 1498, 1499; amended Oct. 19, 1984, P.L. 98–511, secs. 702(a), 703, 704(a), 98 Stat 2405, 2406; amended Oct. 17, 1986, P.L. 99–498, §1401(a), 100 Stat. 1589; amended June 3, 1987, P.L. 100–50, §24(a), 101 Stat. 362;

amended April 28, 1988, P.L. 100-297, secs. 3001(p), 3002 [illegible] 03(c), 102 Stat. 337, 349.

NATIONAL CENTER FOR EDUCATION STATISTICS

SEC. 406. (a)(1) There is established, within the Office of Educational Research and Improvement, a National Center for Education Statistics (hereafter in this section referred to as the "Center"). The general design and duties of the National Center for Education Statistics shall be to acquire and diffuse among the people of the United States useful statistical information on subjects connected with education (in the most general and comprehensive sense of the word) particularly the retention of students, the assessment of their progress, the financing of institutions of education, financial aid to students, the supply of and demand for teachers and other school personnel, libraries, comparisons of the education of the United States and foreign nations and the means of promoting material, social, and intellectual prosperity through education.

(2)(A) The Center shall be headed by a Commissioner of Education Statistics who shall be appointed by the President, by and with the advice and consent of the Senate. The Commissioner of the National Center for Education Statistics shall have substantial experience and knowledge of programs encompassed by the National Center[1] The Commissioner shall be paid in accordance with section 5315 of title 5, United States Code. The Commissioner shall serve for terms of 4 years, except that the initial appointment shall commence June 21, 1991.

(B) There shall be within the Center (i) an Associate Commissioner for Statistical Standards and Methodology who shall be qualified in the field of mathematical statistics or statistical methodology; and (ii) an Associate Commissioner for Data Collection and Dissemination, who shall be an individual who has extensive knowledge of uses of statistics for policy purposes at all levels of American education, and who shall promote the participation of States, localities, and institutions of higher education in designing education statistics programs, encourage widespread dissemination and use of the Center's data, and promote United States participation in international and regional education statistics. The Commissioner may appoint such other Associate Commissioners as may be necessary and appropriate.

(b) The purpose of the Center shall be to collect, and analyze[2] and disseminate statistics and other data related to education in the United States and in other nations. The Center shall—

(1) if feasible, on a State-by-State basis, collect, collate, and, from time to time, report full and complete statistics on the conditions of education in the United States;

(2) conduct and publish reports on specialized analyses of the meaning and significance of such statistics;

(3) assist State and local educational agencies, including State agencies responsible for postsecondary education, in improving and automating their statistical and data collection ac-

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[1] So in law. Probably should be followed by a period.

[2] So in law. The word "and" is probably unnecessary.

tivities (and shall establish a special program to train employees of such State and local agencies in the use of the Center's standard statistical procedures and concepts and may establish a fellows program to temporarily appoint such employees as fellows at the Center for the purpose of familiarization with the operations of the Center);

(4) review and report on educational activities in foreign countries;

(5) conduct a continuing survey of institutions of higher education and local educational agencies to determine the demand for, and the availability of, qualified teachers and administrative personnel, especially in critical areas within education which are developing or are likely to develop, and assess the extent to which programs administered in the Department of Education are helping to meet the needs identified as a result of such continuing survey; and

(6) access[1] periodically the current and projected supply and demand for elementary and secondary school teachers (including teachers at the pre-school level) and early childhood education development personnel with particular attention to—

(A) long-term and short-term needs for personnel in various subject areas or teaching specialities;

(B) shortages in particular types of schools or communities, and in States or regions;

(C) the number of minorities entering teaching;

(D) the proportions of women and minorities in educational administration, and the trends over time;

(E) the demographic characteristics, academic qualifications, job preparation, experience and skills of existing teachers and new entrants in the field of education;

(F) the effect of the introduction of State mandated teacher competency tests on the demographic and educational characteristics of teachers and the supply of teachers; and

(G) the rate at which teachers leave teaching, their reasons for leaving, the sources of supply for new entrants, and the trends over time.

(c)(1) There shall be an Advisory Council on Education Statistics which shall be composed of 7 public members appointed by the Secretary and such ex officio members as are listed in subparagraph (2). Not more than 4 of the appointed members of the Council may be members of the same political party.

(2) The ex officio members of the Council shall be—

(A) the Assistant Secretary,

(B) the Director of the Census,

(C) the Commissioner of Labor Statistics,

(D) Commissioner[2] of Education Statistics, and;[3]

(E) Chairman,[4] National Commission on Libraries and Information Science.

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[1] So in law. Probably should be "assess".

[2] So in law. Probably should read "the Commissioner".

[3] So in law. Probably should read " . . . Statistics; and".

[4] So in law. Probably should read "the Chairman".

(3) Appointed members of the Council shall serve for terms of 3 years, as determined by the Secretary, except that in the case of initially appointed members of the Council, they shall serve for shorter terms to the extent necessary that the terms of office of not more than 3 members expire in the same calendar year.

(4) The Commissioner of Education Statistics shall serve as the non-voting presiding officer of the Council.

(5)(A) The Council shall meet at the call of the presiding officer, except that it shall meet—

(i) at least four times during each calendar year; and

(ii) in addition, whenever three voting members request in writing that the presiding officer call a meeting.

(B) Six members of the Council shall constitute a quorum of the Council.

(6) The provisions of section 448(b) of part D of this title shall not apply to the Council established under this subsection.

(7) The Council shall review general policies for the operation of the Center and shall be responsible for advising on standards to insure[1] that statistics and analyses disseminated by the Center are of high quality and are not subject to political influence.

(8) The Commissioner may appoint such other ad hoc advisory committees as the Commissioner considers necessary.

(d)(1) The Commissioner shall, not later than June 1 of each year, submit to the Congress an annual report which—

(A) contains a description of the activities of the Center during the then current fiscal year and a projection of its activities during the succeeding fiscal year;

(B) sets forth estimates of the cost of the projected activities for such succeeding fiscal year; and

(C) includes a statistical report on the condition of education in the United States during the two preceding fiscal years and a projection, for the three succeeding fiscal years, of estimated statistics related to education in the United States.

(2) The Secretary shall submit annually a report to the Congress giving information of the State of Education in the Nation. In such report the Secretary shall clearly set forth the Secretary's views of critical needs in education and the most effective manner in which the nation and the Federal Government may address such needs.

(3) The Center shall develop and enforce standards designed to protect the confidentiality of persons in the collection, reporting, and publication of data under this section. This subparagraph shall not be construed to protect the confidentiality of information about institutions, organizations, and agencies receiving grants from or having contracts with the Federal Government.

(4)(A)[2] Except as provided in this section, no person may—

(i) use any individually identifiable information furnished under the provisions of this section for any purpose other than statistical purposes for which it is supplied;

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[1] So in law. Probably should be "ensure".

[2] So in law. Indentation is incorrect. See P.L. 100–297, sec. 3001(m), 102 Stat. 335.

(ii) make any publication whereby the data furnished by any particular person under this section can be identified; or

(iii) permit anyone other than the individuals authorized by the Commissioner to examine the individual reports; or

(B) No department, bureau, agency, officer, or employee of the Government, except the Commissioner of Education Statistics in carrying out the purposes of this section, shall require, for any reason, copies of reports which have been filed under this section with the Center for Education Statistics or retained by any individual respondent. Copies of such reports which have been so retained or filed with the Center or any of its employees or contractors or agents shall be immune from legal process, and shall not, without the consent of the individual concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding. This subsection shall only apply to individually identifiable data (as defined in subparagraph (E)).[1]

(C) Whoever, being or having been an employee or staff member appointed under the authority of the Commissioner or in accordance with this section of the Act, having taken and subscribed the oath of office, or having sworn to observe the limitations imposed by subsection (a), knowingly publishes or communicates any individually identifiable information (as defined in subparagraph (E)), the disclosure of which is prohibited under the provisions of subparagraph (A), and which comes into his or her possession by reason of employment (or otherwise providing services) under the provisions of this section, shall be fined under title 18, United States Code, or imprisoned not more than 5 years, or both.

(D) The Commissioner may utilize temporary staff, including employees of Federal, State, or local agencies or instrumentalities including local education agencies, and employees of private organizations to assist the Center in performing the work authorized by this section, but only if such temporary staff is sworn to observe the limitations imposed by this section.

(E) No collection of information or data acquisition activity undertaken by the Center shall be subject to any review, coordination or approval procedure except as required by the Director of the Office of Management and Budget under the rules and regulations established pursuant to chapter 35 of title 44, United States Code.

(F) For the purposes of this section—

(i) the term "individually identifiable information" means any record, response form, completed survey or aggregation thereof from which information about individual students, teachers, administrators or other individual persons may be revealed;

(ii) the term "report" means a response provided by or about an individual to an inquiry from the Center and does not include a statistical aggregation from which individually identifiable information cannot be revealed; and

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[1] So in law. Probably should be subparagraph "(F)".

(iii) as used in clause (i), the term "persons" does not include States, local educational agencies, or schools.

(G)(i) This paragraph shall not apply to—

(I) the survey required by section 1303(c) of the Higher Education Amendments of 1986; or

(II) to any longitudinal study concerning access, choice, persistence progress, or attainment in postsecondary education.

(ii) Any person, except those sworn to observe the limitation of this subsection, who uses any data as described in clause (i) provided by the Center, in conjunction with any other information or technique (including de-encryption), to identify any individual student, teacher, administrator, or other person and who discloses, publishes, or uses for a purpose other than that for which it was collected, or who otherwise violates clause (i) or (ii) of subparagraph (A), shall be fined under title 18, United States Code, or imprisoned not more than 5 years, or both.

(iii) No employee or staff member of the Center or of an institution of higher education may be found criminally liable under subparagraph (C), based on a violation of subparagraph (A) or clause (i), if such employee or staff member has taken reasonable precautions, consistent with the purpose of this section, to ensure the confidentiality of data made available to the public.

(H) Nothing in this paragraph shall restrict the right of the Comptroller General of the United States and the Librarian of Congress to gain access to any reports or other records, including information identifying individuals, in the Center's possession; except that the same restrictions on disclosure that apply to the Center under subparagraphs (B) and (G) shall apply to the General Accounting Office and the Library of Congress.

(e)(1) The Center is authorized to furnish transcripts or copies of tables and other statistical records and make special statistical compilations and surveys for State and local officials, public and private organizations, and individuals. The Center shall provide State and local educational agencies opportunities to suggest the development of particular compilations of statistics, surveys, and analyses that would assist those educational agencies. The Center shall furnish such special statistical compilations and surveys as the Committees on Labor and Human Resources and on Appropriations of the Senate and the Committees on Education and Labor and on Appropriations of the House of Representatives may request. Such statistical compilations and surveys, other than those carried out pursuant to the preceding sentence, shall be made subject to the payment of the actual or estimated cost of such work. In the case of nonprofit organizations or agencies, the Secretary may engage in joint statistical projects, the cost of which shall be shared equitably as determined by the Secretary: *Provided,* That the purposes of such projects are otherwise authorized by law. All funds received in payment for work or services described in this paragraph shall be deposited in a separate account which may be used to pay directly the costs of such work or services, to repay appropriations which initially bore all or part of such costs, or to refund excess sums when necessary.

(2)(A) The Center shall participate with other Federal agencies having a need for educational data in forming a consortium for the purpose of providing direct joint access with such agencies to all educational data received by the Center through automated data processing. The Library of Congress, General Accounting Office, and the Committees on Labor and Human Resources and Appropriations of the Senate and the Committees on Education and Labor and Appropriations of the House of Representatives shall, for the purposes of this subparagraph, be considered Federal agencies.

(B) The Center shall, in accordance with regulations published for the purpose of this paragraph, provide all interested parties, including public and private agencies and individuals, direct access to data collected by the Center for purposes of research and acquiring statistical information.

(3)[1] In carrying out any authorized responsibilities under this section, the Commissioner may enter into contracts under regular competitive procedures of the Federal Government or other financial arrangements. Contracts or financial arrangements may also include sole source contracts with States, additional institutions, organizations performing international studies, and associations that are nationally representative of a wide variety of States or nonpublic schools. The Commissioner shall submit annually a report to the appropriate committees of the Congress, listing each sole source contract, its purpose, and the reasons why competitive bidding was not feasible in each such instance.

(4) The Commissioner is authorized to prepare and publish such information and documents as may be of value in carrying out the purposes of this section. Periodically, the Commissioner shall issue a regular schedule of publications.

(5) In addition to the condition of education report under subsection (d), the Commissioner is authorized to make special reports on particular subjects whenever required to do so by the President or either House of Congress or when considered appropriate by the Commissioner.

(6) The Commissioner is authorized to use information collected by other offices in the Department of Education and by other executive agencies and to enter into interagency agreements for the collection of statistics for the purposes of this section. The Commissioner is authorized to arrange with any agency, organization, or institution for the collection of statistics for the purposes of this section and may assign employees of the Center to any such agency, organization, or institution to assist in such collection.

(7) The Commissioner is authorized to use the statistical method known as sampling to carry out this section. Data may be collected from States, local educational agencies, schools, libraries, administrators, teachers, students, the general public,

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[1] So in law. Indentations are incorrect for paragraphs (3) through (9).

and such other individuals, persons, organizations, agencies, and institutions as the Commissioner may consider appropriate.

(8) To assure the technical quality and the coordination of statistical activities of the Department, the Commissioner shall provide technical assistance to Department offices that gather data for statistical purposes. Such assistance may include a review of and advice on data collection plans, survey designs and pretests, the management of data, and the quality of reporting of data.

(9) The Commissioner is authorized to—

(A) select, appoint, and employ such officers and employees as may be necessary to carry out the functions of the Center, subject to the provisions of title 5, United States Code (governing appointments in the competitive service), and the provisions of chapter 51 and subchapter III of chapter 53 of such title (relating to classification and General Schedule pay rates); and

(B) notwithstanding any other provision of this Act, to obtain services as authorized by section 3109 of title 5, United States Code, at a rate not to exceed the equivalent daily rate payable for grade GS–18 of the General Schedule under section 5332 of such title.

(f)(1)[1] There are authorized to be appropriated for the purposes of this section (including salaries and expenses) $42,323,000 for fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993.

(2) The Commissioner may contract with States to carry out subsection (h). Such contracts may not exceed the additional cost to the State—

(A)[2] of meeting the information and data gathering requirements in compliance with such subsection; or

(B)[2] for compliance with related efforts of the National Center for Education Statistics to achieve comparable and uniform data consistent with the purposes of this subsection.

(g)(1) In addition to its other responsibilities, the Center shall collect uniform data from the States on the financing of elementary and secondary education. Each State receiving funds under the Education Consolidation and Improvement Act of 1981 shall cooperate with the Center in this effort.

(2)[3] In addition to other duties of the Commissioner under this section, it shall be the responsibility of the Commissioner to issue regular public reports to the President and Congress on dropout and retention rates, results of education, supply and demand of teachers and school personnel, libraries, financial aid and on such other education indicators as the Commissioner determines to be appropriate.

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[1] Section 405(f)(1)(D) reserves a minimum amount to carry out subsection (i), relating to the National Assessment of Educational Progress, in each fiscal year in which amounts appropriated to carry out section 405 and this section exceed amounts appropriated for such purpose in the fiscal year 1986.

[2] So in law. Subparagraphs (A) and (B) are indented incorrectly.

[3] So in law. Paragraphs (2) through (8) are indented incorrectly.

(3) The Commissioner shall establish a special study panel to make recommendations concerning the determination of education indicators for study and report under paragraph (2). Not more than 18 months after the date of the enactment of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, the Commissioner shall submit the report of the panel to the appropriate committees of the Congress. The panel shall cease to exist 6 months after the date of such submission.

(4)(A) The Center shall conduct an annual national survey of dropout and retention rates as an education indicator.

(B) The Commissioner shall appoint a special task force to develop and test an effective methodology to accurately measure dropout and retention rates. Not later than 1 year after the date of enactment of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, the task force shall submit a report of its recommendations, including procedures for implementation of such recommendations, to the Commissioner and the appropriate committees of the Congress.

(C) On the second[1] Tuesday after Labor Day of 1989 and on each such Tuesday thereafter, the Center shall submit a report to the appropriate committees of the Congress of the dropout and retention rate prevailing on March 30 of each such year.

(5)(A) As of March 30, 1990, and not less than every 3 years thereafter, the Center shall conduct a national study and survey of financial aid in accordance with the provisions of section 1303(c) of the Higher Education Amendments of 1986. The Center shall submit a report to the appropriate committees of the Congress concerning the findings of such study[2]

(B) Concurrent with each survey, the Center.[3] shall conduct longitudinal studies of freshman and graduating students concerning access, choice, persistence progress, curriculum and attainment. Such studies shall evaluate such students at 3 points over a 6-year interval.

(6) On April 1, 1993, and every 10 years thereafter, the Center shall submit a report to the appropriate committees of the Congress concerning the social and economic status of children who reside in the areas served by different local educational agencies. Such report shall be based on data collected during the most recent decennial census.

(7) The Center shall conduct a study of a statistically relevant sample of students enrolled in elementary and secondary school and postsecondary education training concerning educational progress, intellectual development, and economic prosperity. The study shall collect data on participation in higher education, including enrollment, persistence, and attainment. Such study shall evaluate such students by such criteria at 2-year intervals. As of February 1, 1989, and every 8 years

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[1] So in law. Probably should read "On the second Tuesday after Labor Day of 1989 and on the second Tuesday after Labor Day of each succeeding year".

[2] So in law. Probably should be followed by a period.

[3] So in law. Period probably should be deleted.

thereafter, the Commissioner shall select a sample of students enrolled in school for this study.

(8) The Center with the assistance of State library agencies, shall develop and support a cooperative system of annual data collection for public libraries. Participation shall be voluntary; however, all States should be encouraged to join the system. Attention should be given to insuring[1] timely, consistent and accurate reporting.

(9) The National Center for Education Statistics shall conduct a study on the effects of higher standards prompted by school reform efforts on student enrollment and persistence. The study shall examine academic achievement, and graduation rates of low-income, handicapped, limited English proficient, and educationally disadvantaged students.

(h)(1) There is established within the Center a National Cooperative Education Statistics System (hereafter referred to in this subsection as the "System"). The purpose of the System is to produce and maintain, with the cooperation of the States, comparable and uniform educational information and data that are useful for policymaking at the Federal, State, and local level.

(2) Each State that desires to participate in the system shall—

(A) first develop with the Center the information and data-gathering requirements that are needed to report on the condition and progress of elementary and secondary education in the United States, such as information and data on—

(i) schools and school districts;

(ii) students and enrollments, including special populations;

(iii) the availability and use of school libraries and their resources;

(iv) teachers, librarians, and school administrators;

(v) the financing of elementary and secondary education;

(vi) student outcomes, including scores on standardized tests and other measures of educational achievement; and

(vii) the progress of education reform in the States and the Nation; and

(B) then enter into an agreement with the Center for that fiscal year to comply with those information and data-gathering requirements.

(3) To establish and maintain the system,[2] the Commissioner—

(A) shall—

(i) provide technical assistance to the States regarding the collection, maintenance, and use of the System's data, including the timely dissemination of such data; and

(ii) to the extent possible, implement standard definitions and data collection procedures; and

(B) may—

(i) directly, or through grants, cooperative agreements, or contracts, conduct research, development, demonstration, and evaluation activities that are related to the purposes of the System; and

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[1] So in law. Probably should be "ensuring".

[2] So in law. Probably should be capitalized.

(ii) prescribe appropriate guidelines to ensure that the statistical activities of the States participating in the System produce data that are uniform, timely, and appropriately accessible.

(i)(1) With the advice of the National Assessment Governing Board established by paragraph (5)(a)(i),[1] the Commissioner shall carry out, by grants, contracts, or cooperative agreements with qualified organizations, or consortia thereof, a National Assessment of Educational Progress. The National Assessment of Educational Progress shall be placed in the National Center for Education Statistics and shall report directly to the Commissioner for Educational Statistics. The purpose of the National Assessment is the assessment of the performance of children and adults in the basic skills of reading, mathematics, science, writing, history/geography, and other areas selected by the Board.

(2)(A) The National Assessment shall provide a fair and accurate presentation of educational achievement in skills, abilities, and knowledge in reading, writing, mathematics, science, history/geography, and other areas specified by the Board, and shall use sampling techniques that produce data that are representative on a national and regional basis and on a State basis pursuant to subparagraphs (C)(i) and (C)(ii). In addition, the National Assessment shall—

(i) collect and report data on a periodic basis, at least once every 2 years for reading and mathematics; at least once every 4 years for writing and science; and at least once every 6 years for history/geography and other subject areas selected by the Board;

(ii) collect and report data every 2 years on students at ages 9, 13, and 17 and in grades 4, 8, and 12;

(iii) report achievement data on a basis that ensures valid reliable trend reporting;[2]

(iv) include information on special groups.

(B) In carrying out the provisions of subparagraph (A), the Secretary and the Board appointed under paragraph (5) shall assure that at least 1 of the subject matters in each of the 4 and 6 year cycles described in subparagraph (A)(i) will be included in each 2 year cycle Assessment.

(C)(i) The National Assessment shall develop a trial mathematics assessment survey instrument for the eighth grade and shall conduct a demonstration of the instrument in 1990 in States which wish to participate, with the purpose of determining whether such an assessment yields valid, reliable State representative data.

(ii) The National Assessment shall conduct a trial mathematics assessment for the fourth and eighth grades in 1992 and, pursuant to subparagraph (6)(D),[3] shall develop a trial reading assessment to be administered in 1992 for the fourth grade in States which wish to participate, with the purpose of determining whether such an assessment yields valid, reliable State representative data.

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[1] So in law. Probably should be "(5)(A)(i)".
[2] So in law. Probably should be "; and".
[3] So in law. Probably should be "paragraph (6)(D)".

(iii) The National Assessment shall ensure that a representative sample of students participate in such assessments.

(iv) No State may agree to participate in the demonstration described in this subsection without full knowledge of the process for consensus decisionmaking on objectives to be tested, required in paragraph (6)(E), and of assessment demonstration standards for sampling, test administration, test security, data collection, validation and reporting. States wishing to participate shall sign an agreement developed by the Commissioner. A participating State shall review and give permission for release of results from any test of its students administered as a part of this demonstration prior to the release of such data. Refusal by a State to release its data shall not restrict the reporting of data from other States that have approved the release of such data.

(v) The Commissioner shall provide for an independent evaluation conducted by a nationally recognized organization (such as the National Academy of Sciences or the National Academy of Education) of the pilot programs to assess the feasibility and validity of assessments and the fairness and accuracy of the data they produce. The report shall also describe the technical problems encountered and a description about what was learned about how to best report data from the National Assessment of Educational Progress. The results of this report will be provided to the Congress and to States which participated in assessments pursuant to paragraph (C) (i) and (ii) within 18 months of the time such assessments were conducted.

(D)(i)[1] The National Assessment shall have the authority to develop and conduct, upon the direction of the Board and subject to the availability of appropriations, assessments of adult literacy.

(3)(A) The National Assessment shall not collect any data that are not directly related to the appraisal of educational performance, achievements, and traditional demographic reporting variables, or to the fair and accurate presentation of such information.

(B) The National Assessment shall provide technical assistance to States, localities, and other parties that desire to participate in the assessment to yield additional information described in paragraph (2).

(4)(A) Except as provided in subparagraph (B), the public shall have access to all data, questions, and test instruments of the National Assessment.

(B)(i) The Commissioner shall ensure that all personally identifiable information about students, their educational performance, and their families and that information with respect to individual schools remain confidential, in accordance with section 552a of title 5, United States Code.

(ii) Notwithstanding any other provision of the law, the Secretary may decline to make available to the public for a period not to exceed 10 years following their initial use cognitive questions that the Secretary intends to reuse in the future.

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[1] So in law.

(C) The use of National Assessment test items and test data employed in the pilot program authorized in subsection (2)(C) to rank, compare, or otherwise evaluate individual students, schools, or school districts is prohibited.

(5)(A)(i) There is established the National Assessment Governing Board (hereafter in this section referred to as the "Board").

(ii) The Board shall formulate the policy guidelines for the National Assessment.

(B) The Board shall be appointed by the Secretary in accordance with this subparagraph and subparagraphs (C), (D), and (E). The Board shall be composed of—

(i) two Governors, or former Governors, who shall not be members of the same political party;

(ii) two State legislators, who shall not be members of the same political party;

(iii) two chief State school officers;

(iv) one superintendent of a local educational agency;

(v) one member of a State board of education;

(vi) one member of a local board of education;

(vii) three classroom teachers representing the grade levels at which the National Assessment is conducted;

(viii) one representative of business or industry;

(ix) two curriculum specialists;

(x) two testing and measurement experts;

(xi) one nonpublic school administrator or policymaker;

(xii) two school principals, one elementary and one secondary;[1]

(xiii) three additional members who are representatives of the general public, including parents.

The Assistant Secretary for Educational Research and Improvement shall serve as an ex officio member of the Board as a nonvoting member.

(C)(i) The Secretary and the Board shall ensure at all times that the membership of the Board reflects regional, racial, gender and cultural balance and diversity and that it exercises its independent judgment, free from inappropriate influences and special interests.

(ii) In the exercise of its functions, powers, and duties, the Board shall hire its own staff and shall be independent of the Secretary and the other offices and officers of the Department of Education.

(iii) The Secretary may appoint, at the direction of the Board, for terms not to exceed 3 years, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, not more than 6 technical employees to administer this subsection who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(D)(i) The members of the Assessment Policy Committee, serving on the date of enactment of the National Assessment of Educational Progress Improvement Act, shall become members of the

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[1] So in law. Probably should end with "and".

Board for the remainder of the terms of the appointment to the Assessment Policy Committee.

(ii) To complete the initial membership of the Board, the Secretary shall appoint members of the Board as necessary in the categories described in subparagraph (B) for which there are no members continuing from the Assessment Policy Committee on the date of enactment of the National Assessment of Educational Progress Improvement Act. The Secretary shall appoint such members from among nominees furnished by the Governors, chief State school officers, education associations and organizations, the National Academy of Sciences, the National Academy of Education, parent organizations, and learned societies.

(iii) As vacancies occur, new members of the Board shall be appointed by the Secretary from among individuals who are nominated by the Board after consultation with representatives of the groups listed in subparagraph (B). For each vacancy the Board shall nominate at least 3 individuals who, by reason of experience or training, are qualified in that particular Board vacancy.

(E) Members of the Board appointed in accordance with this paragraph shall serve for terms not to exceed 4 years which shall be staggered, as determined by the Secretary, subject to the provisions of subparagraph (D)(i). Any appointed member of the Board who changes status under subparagraph (B) during the term of the appointment of the member may continue to serve as a member until the expiration of that term.

(6)(A) In carrying out its functions under this subsection, the Board shall be responsible for—

(i) selecting subject areas to be assessed (consistent with paragraph (2)(A));

(ii) identifying appropriate achievement goals for each age and grade in each subject area to be tested under the National Assessment;

(iii) developing assessment objectives;

(iv) developing test specifications;

(v) designing the methodology of the assessment;

(vi) developing guidelines and standards for analysis plans and for reporting and disseminating results;

(vii) developing standards and procedures for interstate, regional and national comparisons; and

(viii) taking appropriate actions needed to improve the form and use of the National Assessment.

(B) The Board may delegate any functions described in subparagraph (A) to its staff.

(C) The Board shall have final authority on the appropriateness of cognitive items.

(D) The Board shall take steps to ensure that all items selected for use in the National Assessment are free from racial, cultural, gender, or regional bias.

(E) Each learning area assessment shall have goal statements devised through a national consensus approach, providing for active participation of teachers, curriculum specialists, local school administrators, parents and concerned members of the general public.

(F) The Secretary shall report to the Board at regular intervals of the Department's action to implement the decisions of the Board.

(G) Any activity of the Board or of the organization described in paragraph (1), shall be subject to the provisions of this subsection.

(7)(A) Not to exceed 10 percent of the funds available for this subsection may be used for administrative expenses (including staff, consultants and contracts authorized by the Board) and to carry out the functions described in paragraph (6)(A).

(B) For the purposes of its administrative functions, the Board shall have the authorities authorized by the Federal Advisory Committee Act and shall be subject to the open meeting provisions of that law.

(8)(A) Participation in the National and Regional Assessments by State and local educational agencies shall be voluntary.

(B) Participation in assessments made on a State basis shall be voluntary. The Secretary shall enter into an agreement with any State which desires to carry out an assessment for the State under this subsection. Each such agreement shall contain provisions designed to assure—

(i) that the State will participate in the assessment;

(ii) that the State will pay from non-Federal sources the non-Federal share of participation; and

(iii) that the State agrees with the terms and conditions specified in subsection (a)(2)(C)(iv).

(C)(i) For each fiscal year, the non-Federal share for the purpose of clause (ii) of subparagraph (B) shall be the cost of conducting the assessment in the State including the cost of administering the assessment at the school level for all schools in the State sample and the cost of coordination within the State.

(ii) The non-Federal share of payments under this paragraph may be in cash or in kind.

(9)(A) The Commissioner shall provide for continuing reviews of the National Assessment, including validation studies by the National Center for Education Statistics and solicitation of public comment on the conduct and usefulness of the National Assessment. The Secretary shall report to the Congress, the President, and the Nation on the findings and recommendations of such reviews. The Commissioner shall consider the findings and recommendations in designing the competition to select the organization through which the Office carries out the National Assessment.

(B) The Commissioner shall, not later than 6 months after the date of enactment of the National Assessment of Educational Progress Improvement Act, publish a report setting forth plans for the collection of data for the 1990 assessment and plans for including other subject areas in the 1992 and later assessments. The report shall include methods by which the results of the National Assessment of Educational Progress may be reported so that the results are more readily available and more easily understood by educators, policymakers, and the general public, and methods by which items will be reviewed to identify and exclude items which reflect racial, cultural, gender, or regional bias. The report shall be developed after consultation with educators, State education officials, members of the Board appointed under paragraph (5), and the general public.

(C) The report required by this paragraph shall be submitted to the Congress and made available to the public. The appropriate authorizing committees of the Congress may request the Secretary to modify the plan contained in the report. The Secretary shall take such actions as may be appropriate to carry out the recommendations contained in the report.

(j) For purposes of this section, the terms "United States" and "State" include the District of Columbia and Puerto Rico.

(20 U.S.C. 1221e–1) Enacted August 21, 1974, P.L. 93–380, sec. 501(a), 88 Stat. 556, 558; amended April 21, 1976, P.L. 94–273, sec. 12(1), 90 Stat. 378; amended October 12, 1976, P.L. 94–482, sec. 401(c), 90 Stat. 2226; sec. 406, 90 Stat. 2231, 2232; sec. 501(q), 90 Stat. 2238; amended Nov. 1, 1978, P.L. 95–561, secs. 1201, 1212(a), (c), 1243(a), 92 Stat. 2333, 2334, 2338, 2341, 2353; see also general reference Oct. 17, 1979, P.L. 96–88, sec. 301, 93 Stat. 677; amended Oct. 19, 1984, P.L. 98–511, secs. 702(b), 704(b), 98 Stat. 2406; amended Oct. 17, 1986, P.L. 99–498, sec. 1402, 100 Stat. 1597; amended June 3, 1987, P.L. 100–50, §24(b), 101 Stat. 363; amended April 28, 1988, P.L. 100–297, secs. 3001, 3403(a), 102 Stat. 331, 344; amended November 16, 1990, P.L. 101–589, sec. 252, 104 Stat. 2894; amended July 23, 1992, P.L. 102–325, sec. 1552, 106 Stat. 838.

SECTIONS 1561 AND 1562 OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 1561. GENERAL AUTHORITY.

(a) AUTHORIZATION.—From funds reserved under section 1511(a)(2), the Secretary is authorized to carry out the programs and activities under this part.

(b) PRIORITY FUNDING.—Subject to the availability of funds for any fiscal year for this part, the Secretary shall make available—

(1) not less than $11,200,000 for National Diffusion Network activities under section 1562;

(2) not less than $8,200,000 for the Inexpensive Book Distribution program under section 1563;

(3) not less than $3,500,000 for the Arts in Education program under section 1564;

(4) not less than $3,200,000 for the law-related education program under section 1565; and

(5) not more than $1,500,000 for the Blue Ribbon Schools program under section 1566.

(20 U.S.C. 2961) Enacted April 28, 1988, P.L. 100–297, sec. 1001, 102 Stat. 210–211.

SEC. 1562. NATIONAL DIFFUSION NETWORK ACTIVITIES.

(a) PURPOSES.—The National Diffusion Network shall be a national program that recognizes and furthers excellence in education by—

(1) promoting the awareness and implementation of exemplary educational programs, products, and practices to interested elementary, secondary, and postsecondary institutions throughout the Nation; and

(2) promoting the utilization of the knowledge, talents, and services of local staff associated with various educational excellence recognition efforts.

The National Diffusion Network shall be designed to improve the quality of education through the implementation of promising and validated innovations and improvements in educational programs, products, and practices, and through the provision of training, consultation, and related assistance services.

(b) RESPONSIBILITIES OF SECRETARY.—In carrying out the activities under this section, which shall be limited to activities directly related to the National Diffusion Network, the Secretary shall—

(1) acquaint persons responsible for the operation of elementary, secondary, and postsecondary schools with information about exemplary educational programs, products, practices, and services;

(2) assist such persons in implementing programs, products, and practices which such persons determine may improve the quality of education in the schools for which they are responsible, by providing materials, initial training, and ongoing implementation assistance;

(3) ensure that all such activities, programs, products, and practices are subjected to rigorous evaluation with respect to their effectiveness and their capacity for implementation;

(4) provide program development assistance toward the recognition, dissemination, and implementation of promising practices that hold the potential for answering critical needs and that have achieved credibility because of their effective use in schools; and

(5) ensure that a substantial percentage of the innovations disseminated represent significant changes in practice for schools and teachers.

In carrying out paragraph (3) of this section, the Secretary shall conduct a single external review by a program effectiveness panel that focuses exclusively on whether the program is efficacious and transferable to other educational settings. Any activity, program, product, or practice which meets the criteria of the preceding sentence may then be disseminated through the National Diffusion Network, and each eligible recipient (as described in subsection (c)) may apply for assistance in accordance with subsection (d).

(c) ELIGIBLE RECIPIENTS OF GRANTS AND CONTRACTS.—For the purpose of carrying out the activities under this section, the Secretary is authorized to make grants to, and contracts with, local educational agencies, State educational agencies, institutions of higher education, and other public and private nonprofit educational institutions and organizations.

(d) FUNDING CRITERIA.—(1) For the purpose of determining which projects to fund under this section, the Secretary shall assess the extent to which the projects meet the following criteria:

(A) The applicant has a workable plan for disseminating its program.

(B) The program's approach is innovative.

(C) The program is accurate and up-to-date.

(2) Each applicant for assistance under this section shall submit statements and supporting materials as required by the Secretary but shall not be required to submit more than a representative sample of the program materials of the applicant.

(3) In establishing regulations under this section, including the specific evaluation criteria under paragraph (1), the Secretary shall

consult with interested parties, including participants in the National Diffusion Network.

(4) For fiscal year 1988 only, the Secretary shall assess applications for financial assistance under this section on the basis of the application or reapplication proposals.

(20 U.S.C. 2962) Enacted April 28, 1988, P.L. 100–297, sec. 1001, 102 Stat. 211–212.

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